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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1992

Addendum

PORTUGAL

[17 August 1994]

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I. GENERAL MEASURES OF IMPLEMENTATION

1. Portugal deposited its instrument of ratification of the Convention on the Rights of the Child on 21 September 1990, and the Convention entered into force in Portugal's internal legal order on 21 October of the same year. No reservation was formulated. Before ratification of the Convention by the Portuguese Government, a study was carried out, in which bodies responsible for solving the problems covered by the Convention participated, to determine the extent to which it was compatible with the country's internal legal order. The study concluded that there was no need to make any significant changes in the internal legal order in order to bring it into line with the provisions of the instrument in question.

2. However, where the protection and promotion of human rights are concerned, we cannot for a moment claim that we have attained such a degree of perfection as to make any further efforts to provide a greater guarantee of the effectiveness of those rights unnecessary. For this reason, the fact that no major inconsistencies have been found between internal legislation regarding the rights of the child and the precepts of the Convention does not mean that existing regulations cannot and should not be improved, notably by taking into account what is provided in the Convention. In fact, that was the philosophy that prevailed even before ratification. Since Portugal participated in drafting the Convention, it has been concerned from the very beginning to use it as a point of reference in any legislation adopted in the field which the Convention covers. After ratification, that effort has continued. We can cite as examples recent legislation on adoption and on child labour, as well as the reorganization of minors' protection boards, bodies specifically designed to intervene in cases involving children who are victims of ill-treatment or are at risk.

3. In fulfilment of the obligation assumed by Portugal at the World Summit for Children held in New York in September 1990 to implement the World Declaration on the Survival, Protection and Development of Children by adopting a plan of action, a working group was set up to carry out the task. This group consisted of representatives of the Ministries of Health, Education, Justice, Employment, Social Security and Foreign Affairs, as well as representatives of non-governmental organizations (NGOs) which play an active role in protecting and promoting children's rights. The varied composition of the group made it possible to gain a thorough knowledge of the real situation in Portugal by means of actions and initiatives taken in the field of competence of each of the bodies concerned. It also enabled a considerable body of documentation to be assembled. The overall perspective given by this approach made it possible to form a picture of difficulties encountered and progress achieved, thus facilitating a constructive assessment of the situation of children in Portugal.

4. The plan of action in regard to child protection which resulted from the group's activities proposes a series of measures which will involve the compilation, analysis and regular publication of data concerning child welfare, enabling progress achieved towards the realization of the established goals to be evaluated. In this connection, a proposal that the Government should set up a permanent structure composed of government departments competent in the matter and interested NGOs, to be responsible for initiating,

coordinating, implementing and evaluating programmes and policies designed to meet the needs of children in Portugal, has been submitted for consideration at a higher level.

5. Since the World Declaration covers some of the areas with which the Convention is also concerned, such initiatives are of course significant for the implementation and promotion of the Convention. In addition, the preparation of the plan of action has facilitated preparation of the present report. This has been compiled by a working group made up of representatives of the Ministry of Justice, with the collaboration of other government departments and of NGOs which have competence in matters relating to children and young people.

6. Following ratification of the Convention, both governmental and non-governmental bodies operating in the field of protection of the rights of the child were concerned to ensure that it reached as wide a public as possible. First of all, the Portuguese version of the Convention was published in the Official Gazette (Diário da República). In addition, it was included in several technical publications, notably those issued by the Ministry of Justice. One of these was the bulletin "Documentation and Comparative Law", sent out to all judges in the country, in which the text of the Convention was accompanied by references to the sources of each of its provisions, as well as by a commentary which referred to the travaux préparatoires for the Convention, explained the need for an international instrument relating to the rights of the child, and described the basic features of the Convention. Similarly, the review "Children and Young People", a publication of the Care of Minors Administration, intended mainly for technicians working in the field and for judges, also published the text of the Convention and a study on it. While on the subject of the Ministry of Justice, it should be noted that the Centre for Judicial Studies, an institution for the training of judges and government procurators, brings the Convention to the attention of junior magistrates. In the Centre's training seminars, stress is also laid on study of the Convention, and on the important role of the courts in ensuring its effective implementation.

7. The police are also concerned to ensure that, in their schools, trainees are made aware of the rights of the child. Thus, the security forces have autonomy as regards the teaching of matters relating to fundamental human rights and law relating to the family and minors, while in the Republican Guard the rights enshrined in the Convention form part of the curriculum of the training courses, and are also frequently included in the standard teaching given to permanent members of the force. The Officer Training School of the Criminal Investigation Department also gives a special place in its curriculum to human rights in general and to the rights of the child in particular.

8. The Ministry of Education has also taken significant action where the Convention is concerned. Under this Ministry and under the Ministry of Justice, a Commission for the Promotion of Human Rights and Equality in Education has been established, which has among its objectives the promulgation and promotion of human rights in schools. As part of its activities, it has seen to it that the Convention is published and distributed

to schools throughout the country. With a view to making children aware of the rights to which they are entitled, the Commission has organized the International Day of the Child, as well as a painting and writing competition on the subject "How do children see their rights?" The Ministry of Education has made efforts, both centrally and regionally, to produce teaching equipment and materials relating to the Convention for use by parents and teachers. A number of publications have appeared and been distributed nationally, containing texts, suggested methodologies and references for teachers, as part of a project entitled "The school in an inter-cultural dimension".

9. Mention must also be made of campaigns in schools to promote human rights, and in particular the Convention, campaigns which have included the holding of competitions on subjects connected with human rights, and with values such as solidarity and respect for the right to be different. Following the campaign to spread knowledge of the Convention in schools, several schools have taken the initiative of organizing a series of activities which have had as their main theme human rights in general and the rights of the child in particular. Discussions, lectures, competitions, film shows, etc., have been organized, in an effort to make children aware of the need to defend and promote these rights, which in many cases they were encountering for the first time.

10. A number of meetings have been held, at which dissemination, promotion and information regarding the Convention played a prominent part. As early as 1988, in collaboration with UNICEF, a meeting of Portuguese-speaking countries was organized, which provided an opportunity for wide-ranging debate and enhancing awareness of the need to approve and ratify the Convention as quickly as possible. We also wish to note the course organized in collaboration with the United Nations Centre for Human Rights in April 1991 on teaching and training in the human rights field, intended for officials of the Ministries of Justice, Foreign Affairs and Education in the seven Portuguese-speaking countries. The course dealt with the question of the rights of the child, in the context of children's relations with the school and with the courts, as well as of their involvement in armed conflicts.

11. Attention is also drawn to the seminar, also held in April 1991, to commemorate ratification of the Convention by Portugal, on the subject "The rights of the child: the Convention and future challenges", and lastly to the international congress "The child in the Portuguese-speaking world" held in February 1992, which dealt with subjects relating to child health, maternal health and education. Mention must also be made of the important role played by NGOs in the promulgation and study of the Convention. One example of this participation is the recent international seminar, organized by the Child Support Institute with assistance from various public bodies, with the overall title "The Portuguese child at the dawn of the new century". The seminar was designed to facilitate an exchange of experiences, as well as a study of how to frame a global policy for children up to the year 2000, the Convention being seen as the framework and inspiration of such a global policy. Stress was laid on the importance of the right of the chid to participate in the family, in school and in society, and discussion was stimulated by an interesting video made by young people on how they saw this fundamental right.

12. A clear indication of the widespread interest taken in Portugal in the subject of the rights of the child, and in the Convention in particular, is the resolution recently approved by all parties represented in Parliament, containing a decision to carry out an in-depth study on cases in which children are abandoned or subjected to violence, and, following that study, to proceed to a wide-ranging national debate on the subject, with a view to guaranteeing to all children the rights provided for both in the Convention and in the Constitution.

13. As is invariably the practice with reports on Portugal's implementation of United Nations human rights instruments, the present report, together with the records of the Committee's discussions and its conclusions, will be published, so that all interested persons will be able to read them. As is the usual procedure, publication will be in the "Documentation and Comparative Law Bulletin". Since the subject dealt with in the present report is of relevance, the review "Children and Young People" also intends to publish it, and the Centre for Judicial Studies (CEJ), in turn, intends to include it in one of the forthcoming issues of the "CEJ Journal", a periodical dealing with legal and social questions.

II. DEFINITION OF THE CHILD

14. In Portugal, the age of majority for civil purposes is now 18 (Civil Code, art. 122). This age was fixed as part of the reform introduced by Decree-Law No. 496/77 of 25 November 1977, which brought the Civil Code into line with the principles of the 1976 Constitution, published following the democratization of the country after 1974. Until then, the age of majority had been 21. It is also at 18 years of age that citizens acquire electoral capacity, both in the active and passive sense. This capacity, which was conferred on young persons by Decree-Law No. 621-A/74 of 15 November 1974, is enshrined in the 1976 Constitution (art. 48, para. 2) and also in article 49, paragraph 1, of the Constitution currently in force.

15. Compulsory basic education ceases at the age of 15 (Act No. 46/86 of 14 October 1986, art. 6, para. 4). In addition, the minimum age for admission to employment is, in principle, 16; in certain special cases - mentioned in chapter VIII, section C, paragraph 219 - minors can be admitted to employment from the age of 15 or even 14, provided that the employment involves "light work". Dangerous occupations are prohibited for young people under 18 years of age.

16. The age of consent is 16, as will be explained in further detail in the appropriate section (see below, chap. VIII, sect. C, para. 232). The marriageable age, both for men and for women, is also 16 (Civil Code, art. 1601, para. (a)). However, the marriage of persons under 18 years of age requires the consent either of both parents exercising parental authority or of a guardian, or, in default of the latter, a court decision. Marriage results in the minor coming of age in the legal sense, this being the only form of coming of age for minors currently recognized under Portuguese law.

17. There is no specific law governing the right of children to consult a doctor or lawyer without parental consent. However, the way in which parental authority is defined under Portuguese family law leads us to conclude that

children are entitled to exercise this right, at least within certain limits. Firstly, an exception is made in regard to the power of parents to represent their children in the case of "purely personal acts"; in addition, parents have a duty, in bringing up their children, to allow them a degree of autonomy in running their own lives that is compatible with the level of maturity they have attained. Minors are also entitled to act for themselves in commonplace legal matters, provided that such action is within their natural capabilities and that no major expenditure is involved.

18. Thus, it appears that children will be legally entitled to consult a doctor or lawyer when health problems or legal problems consistent with their age arise, provided that such problems are not especially serious and do not involve great expense. The particular question of the right of young people to consult family planning centres without the consent of their parents or legal representatives was the subject of extensive debate some 10 years ago. An earlier approach, which denied young people that right, has now been overtaken by the Sex Education and Family Planning Act (Act No. 3/84 of 24 March 1984) which allows young people who have attained the age of fertility to have unrestricted access to family planning consultations, at which information on sexual matters can be given and young people thought to be in situations of risk can be provided with contraceptives. In addition, there are no age restrictions on the sale of contraceptives, including condoms, in pharmacies or supermarkets. Lastly, on the subject of the rights of young people in regard to health and medical interventions, mention must be made of Act No. 6/64 of 11 March 1964, which gives a pregnant girl minor of over 16 years of age the right to consent to an abortion, in cases where abortion is authorized.

19. As will be indicated below (chap. VIII, para. 178), only persons over 18 years of age can be required to perform military service; voluntary military service is authorized from 17 years of age, with the consent of whoever exercises parental authority in respect of the young person concerned.

20. The age of criminal responsibility is 16; this is also the age at which young people may be imprisoned or sentenced to deprivation of liberty. These points will be dealt with in chapter VIII, section B, which deals with children in conflict with the law. There is no age-limit for children testifying in court. However, there are specific regulations governing the questioning of children below 16 years of age (Code of Penal Procedure, art. 349). They may be questioned only by the presiding judge, and other judges or jurors, the government procurator or other lawyers are required to ask the presiding judge to formulate any additional questions they may need to put to the child.

21. Earlier legislation prohibiting the sale of alcoholic beverages to young people below the age of 15/16 and restricting their access to premises licensed to sell wine (Decrees Nos. 12,708 of 22 November 1926 and 15,602 of 18 June 1928) is now no longer applied, and current legislation on the matter is fairly flexible. Alcoholic beverages can be freely sold and consumed in Portugal. Alcoholic beverages may be bought in unlimited quantities in any supermarket and freely consumed in public places, especially cafés and restaurants (although, in certain cases, it is a criminal offence to sell alcoholic beverages to a drunken person). The consumption of alcoholic

beverages, particularly beer, by adolescents is socially tolerated, at least in small quantities. In school canteens and cafeterias (those in higher education establishments constitute an exception) the consumption of alcoholic beverages is prohibited, not only for pupils but also for teachers and school employees, under the regulations governing the establishments concerned.

22. Where tobacco is concerned, while there are no restrictions on sale, there are limits on consumption. Thus, smoking is prohibited in educational establishments and in all premises intended for the use of young people below 16 years of age, notably welfare institutions, leisure centres, holiday camps and comparable establishments (Decree-Laws No. 266/83 and 333/85 of 27 May 1983 and 20 August 1985, respectively). The sale of drugs outside medical establishments is still illegal, whatever the age of the buyer. The penalties for this offence are increased if the buyer is a minor (see below, chap. VIII, sect. C, paras. 224 and 225).

III. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

23. Article 13 of the Portuguese Constitution proclaims the principle of equality, and affirms that all citizens have the same social dignity and are equal before the law and that no one shall be privileged, deprived of any right or exempted from any duty because of his ancestry, sex, race, language, place of origin, religion, political or ideological beliefs, education, economic situation or social status. This constitutional principle - like all norms relating to rights, freedoms and guarantees - is directly applicable, and is binding on both public and private bodies.

24. The Constitution recognizes that children are entitled to special protection by society and the State against any form of discrimination (art. 69, para. 2). The 1976 Constitution put an end to the unfavourable legal status which had previously affected children born out of wedlock. This text, after recognizing that everyone has the right to found a family and to marry on terms of complete equality, states that children born out of wedlock should not for that reason be subjected to discrimination, and that discriminatory designations of filiation should not be used by the law or by government departments. The 1977 reform of the Civil Code gave effect to that constitutional requirement by eliminating the expression "illegitimate child" and revising all provisions which might imply that illegitimate children were to be subject to discriminatory treatment.

25. The Constitution also lays down that aliens and stateless persons staying or residing in Portugal shall enjoy the same rights and be subject to the same duties as Portuguese citizens. However, the Constitution exempts from this regime, in addition to political rights and public duties that are not predominantly technical, "rights and duties reserved exclusively by the Constitution and the law for Portuguese citizens" (art. 15, para. 2). On the basis of the latter provision, certain rights have been restricted for the most part to nationals and have been extended to aliens only where there exists a regime of reciprocity (see, for example, art. 5, para. 4, of the Social Security Act and section XXV, para. 3, of the Outline Law on Health).

Agreements have been concluded with several countries whose official language is Portuguese, giving nationals of those countries residing in Portugal certain rights in regard to health (such agreements exist with Cape Verde, Sao Tome and Principe, Guinea-Bissau and Angola) as well as to social security (one convention has been concluded with Cape Verde, and another with Guinea-Bissau is in course of preparation).

26. The Penal Code makes discrimination on ethnic grounds a crime against humanity. Anyone who, publicly or through any medium of social communication, slanders, insults or disparages a person or group of persons on grounds of race, colour or ethnic origin, or commits acts of violence against them, is guilty of an offence punishable by a prison term of one to five years. Anyone who sets up, finances or participates in associations or activities which incite to or encourage racial discrimination, hatred or violence is guilty of a crime punishable by two to eight years' imprisonment (art. 189, para. 2). In addition, incitement to racial or religious hatred is considered as an aggravating circumstance in the crime of homicide (art. 132, para. 2 (d)).

B. Best interests of the child (art. 3)

27. The principle of the best interests of the child was clearly affirmed in Portuguese law for the first time in the Child Protection Act of 27 May 1911, which set up juvenile courts to which it gave broad powers, in relation not only to children at risk but also to socially maladjusted or even delinquent children. Article 2 of this Act provides that the decisions of the courts shall always be taken in the best interests of the minor concerned. The Act on the Organization of Care for Minors (OTM), a new law on the subject which has already gone through several versions (the current version having been introduced under Decree-Law No. 314/78 of 27 October 1978) retains the same criterion, declaring that juvenile courts shall have as their objectives the legal protection of minors and the defence of minors' rights and interests.

28. A number of provisions of the Civil Code specifically state that decisions taken in relation to children - whether by parents or by administrative or judicial authorities - must give paramount consideration to the "best interests of the child". This principle is confirmed, for instance, in provisions - which will be described in more detail in the relevant sections of the report - concerning choice of name (art. 1875, para. 10), extent of parental authority (art. 1878, para. 41), regulations governing the exercise of parental authority in case of divorce, judicial separation or annulment of marriage (art. 1905, para. 44) and adoption (art. 1974, para. 56).

29. Children and the family have a constitutional right to "protection by society and the State" (arts. 67 and 69). With a view to ensuring that the circumstances of families are such as to guarantee the protection and welfare of children, the Constitution makes it the duty of the State, inter alia, to implement full-employment policies (art. 58, para. 3 (a)), to organize a social security system to provide protection in situations where the means of subsistence or capacity to work are lost or reduced (art. 63, paras. 2 and 5), to secure access to preventive, curative and rehabilitative medical care (art. 64, para. 3 (a)), to implement policies permitting access to a dwelling

of sufficient size and with adequate standards of hygiene and comfort (art. 65, paras. 1 and 2), to promote the establishment of a national network of assistance to mothers and children and a national network of day-care centres (art. 67, para. 2), to institute a public system of pre-school education and to ensure universal, free and compulsory basic education (art. 74, para. 3 (a) and (b)).

30. The particular ways in which those rights have been given practical effect will be described in more detail in subsequent paragraphs relating to the subjects concerned.

31. The State also has a duty to cooperate with parents in the upbringing of their children (arts. 67, para. 2 (c), and 68, para. 1), although bringing up children is the responsibility of the parents (art. 68, para. 1, and 36, para. 5). As we shall have occasion to reiterate frequently in the course of this report, parents have a constitutional right and duty to see to the upbringing and maintenance of their children. Children cannot be separated from their parents unless the latter fail to perform their fundamental duties towards them, and then only by judicial decision (art. 36, paras. 5 and 6). Even where such a decision is taken, and the child is taken into care by a third person or an educational establishment, the parents retain the right to exercise parental authority in anything which is not incompatible with that decision: in addition, arrangements have to be made for children to visit their parents, other than in exceptional cases where such visits are deemed to be inadvisable in the interests of the child (Civil Code, art. 1919, para. 2). The same arrangements are made when care and protection measures are adopted by a juvenile court, on the grounds that the child shows signs of social maladjustment or is committing offences (OTM, art. 26).

32. When they are in the public domain, institutions and services responsible for the care or protection of children are subject to legal norms which govern their operation. These norms specify the objectives to be attained, the requirements for the proper care of the children, and the staffing required in terms both of numbers and of qualifications. These institutions are subject to the direction and control of supervisory bodies, which in some cases are even equipped to carry out inspections.

33. Nowadays most institutions set up to provide support to children, notably homes for children who have no families, are in the private sector. In fact, the Constitution (art. 63, para. 3), although considering that it is the duty of the State to establish a social security system, allows for the setting up of private, non-profit-making institutions of social solidarity which can assist it in achieving some of its objectives, particularly in regard to the protection of the family, children and young people. The institutions envisaged under this provision will be governed by a specific law and subject to State control. The institutions in question are currently governed by Decree-Law No. 119/93 of 25 February 1993. They can only function once their statutes have been approved. In addition, they undertake to work in cooperation with the social security services under a written agreement in which they are required to state the aims of the institution, the number of persons in care, the number of staff and their qualifications. Under that agreement, the State undertakes to contribute financially to the institution, to provide it with support, and to monitor and supervise its activities.

34. Certain establishments providing social support for children and young people, such as day-care centres, leisure centres and clubs, may be run on a profit-making basis. Such establishments cannot begin to operate without a permit issued by the social security services (Decree-Law No. 30/89 of 24 January 1989), for which purpose they must comply with fairly strict requirements. Once these establishments have begun to function, it is the responsibility of the social security services to monitor their activities both from the technical and social standpoints and to supervise their operation.

C. Right to life, survival and development (art. 6)

35. The right to life is foremost among the fundamental rights enumerated in the Constitution (art. 24). Under the Portuguese constitutional system, this right enjoys absolute protection, as a result of which, for instance, the death penalty is prohibited under any circumstances, as is the extradition of aliens who may be in danger of being exposed to the death penalty in their country of origin. The right to life may not be limited in any circumstances, not even by the declaration of a state of siege or emergency (art. 19, para. 6).

36. The protection of human life extends to life in utero, although there is no absolute ban on abortion in situations where other rights guaranteed under the Constitution (life, health, dignity and freedom of the woman) are at stake.

37. The rights to survival and development will be dealt with under section A of chapter VI (health) (see paras. 126 and 127 below).

D. Respect for the opinions of the child (art. 12)

38. One of the characteristic features of current Portuguese family law, following the reform of the Civil Code carried out in 1977, is a strengthening of the position of young people. The former system, which was based on an authoritarian conception of the family, has been replaced by a regime modelled on the image of a united family, within which parents and children have a duty to respect, aid and assist each other (art. 1874, para. 1). Thus, while the Code states that children have a duty to obey their parents, it immediately adds that the latter, for their part, have a duty, depending on the maturity of the children, to take their views into account in important family matters and to allow them autonomy in running their own lives (art. 1878, para. 2).

39. There are a number of provisions in the Civil Code giving effect to this concept. As examples of the right of children to be heard in important matters affecting family life, we may cite the provisions requiring a court to give a hearing to children over 14 years of age when the parents have had recourse to the law because of a conflict over the exercise of parental authority (art. 1901, para. 2), when the parents are seeking to adopt a child (art. 1984, para. (a)), or in the case of judicial proceedings to appoint a guardian (art. 1931, para. 2).

40. In chapter II we have cited a number of examples to show how the concept whereby children must be given the greatest possible degree of autonomy in

running their own lives is given practical effect. However, other instances could also be mentioned. Thus, for instance, under the Civil Code, young people over 16 years of age are entitled to administer property acquired from the fruit of their labour (art. 1888, para. 1 (d)), to decide on their religious education (art. 1886, para. 47), and to recognize a child born out of wedlock (art. 1850, paras. 1 and 2). Young persons over 14 years of age cannot be adopted without their consent (art. 1981, para. 1 (a)). In addition, in the case of minors of any age who are parents, it is the parents who have the right to assent to their child's adoption, and not their legal representatives (art. 1981, para. 1 (c)). In conclusion, it should be noted that minors are entitled to seek protection from the courts against abuse of authority either within the family or in institutions where they are in care (OTM, art. 15, para. (c)).

41. Legislation covering the care of children who are at risk, socially maladjusted or guilty of criminal offences, which will be described in chapter VIII, section B, paragraphs 181 et seq., lays down that when the application of a particular measure is appropriate, the minor shall be heard "whenever possible" (paras. 187 and 188). With regard to administrative decisions taken by the social security services or by protection boards, the law provides that parents or legal representatives are entitled to oppose any action or decisions by the latter and to seek a judicial review of the case (see para. 189 below).

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (art. 7)

42. In accordance with the Civil Registration Code, birth is an event to be registered (art. 1). All births on Portuguese territory are subject to registration; births must be orally reported within 30 days, at the competent civil register centre, branch or office. These services are found throughout the national territory and are thus easily accessible to citizens. Failure to comply with this obligation within the appointed time-limits imposes on civil registers and administrative authorities a duty so to inform the government procurator's office, which will institute criminal proceedings against the person required to make the declaration as well as compile all the requisite information for registration (art. 119). Registration is likewise compulsory for births of Portuguese nationals abroad (art. 2).

43. The choice of surname and forename lies with the parents. In case of disagreement, the decision shall be taken by a judge, who must decide in accordance with the child's interest (Civil Code, art. 1875). The forename must be incorporated in the birth certificate and shall be indicated by the person making the declaration or, if the latter does not wish to do so, by the official to whom the declaration has been made. The composition of the forename shall follow the rules of the Civil Registration Code.

44. Attribution, acquisition and loss of nationality are governed by Act No. 37/81 of 3 October 1981, according to which all children of a Portuguese father or mother born on Portuguese territory, or on Portuguese-administered territory if the parent is on State service, are Portuguese by origin. Children of a Portuguese father or mother born abroad

are also Portuguese, if the parents declare that they wish the child to be Portuguese or register the birth at a Portuguese civil register office; children of foreign parents resident in Portugal for over six years, if they are not in the service of their respective State and declare a wish for the child to be Portuguese; and those born on Portuguese territory if they possess no other nationality.

45. Alongside such cases, recognized by law as an attribution of Portuguese nationality, mention should be made of situations in which acquisition is possible. Minors having a father or mother who acquires Portuguese nationality may likewise acquire it, by means of a declaration. In addition, full adoption by a Portuguese citizen confers nationality. Acquisition of nationality by means of naturalization is not applicable to young people under 18 years of age save where Portuguese law recognizes the coming of age and they satisfy all other requirements set forth by the law. They must have lived for over six years on Portuguese territory or territory under Portuguese administration, and have an adequate command of the language (these conditions may be waived in certain situations); they must be of suitable moral and civic character as well as being able to look after themselves and earn a living.

46. With reference to the right of children to know their parents, as provided for under the Convention, it should be noted that the birth certificate must bear the names of the father and mother alike. In accordance with the Civil Code, the person declaring the birth must, if possible, identify the mother of the registered child (art. 1803). If the mother is not named on the birth certificate, an informal inquiry is conducted by the court (art. 1008). Motherhood may also be recognized by means of proceedings specially instituted by the child for that purpose (art. 1814). Such proceedings may be taken only while the child is a minor or in the first two years following majority or emancipation. Exceptions to the rule may be allowed when the action is based on a written text in which the putative mother declares her motherhood unequivocally, or when the instituting party has been treated as an offspring by the putative mother who ceases to do so. There is a presumption that the father of a child born or conceived in wedlock is the husband of the mother (art. 1826), although that presumption may be set aside.

47. With regard to children born out of wedlock, filiation is established through recognition. The putative father must be mentioned on the child's birth certificate. In that regard, there is a duty to undertake an informal investigation whenever that has not been done. This is conducted only when the name of the putative father is known and it is verified that he and the mother are relatives or have links of direct affinity or are relatives in the second degree of collateral line. Paternity may likewise be recognized by means of proceedings specially instituted by the child if motherhood is already established, or if simultaneous recognition of both is requested. For the purpose of such action, the law makes certain presumptions as to paternity.

48. Of foremost importance, with regard to the recognized right of children to be brought up by their parents, is the constitutional provision already referred to (see para. 31 above), which endows parents with the right and duty

to bring up and maintain their children. Thus we have not only a right of parents with regard to children but a similar right for children vis-à-vis parents. Parents have a recognized right to protection by society and the State in carrying out their task concerning their children, especially with regard to their education, by safeguarding the parents' occupational self-fulfilment and their participation in civic life (art. 68, para. 1).

49. Children are subject to parental authority until reaching adulthood or emancipation. As part of the exercise of that authority, it is for parents to promote, as far as they can, the children's physical, intellectual and moral development. They must thus give them, and especially those who are physically or mentally handicapped, the opportunity of an adequate general and vocational education, in line, as far as possible, with their individual aptitudes and preferences (Civil Code, art. 1885). Children may be separated from their parents only when the latter fail to carry out their basic duties towards them, as will be seen in the section on abuse and neglect of children.

B. Preservation of identity (art. 8)

50. We have already seen that the Constitution recognizes the right of all to personal identity (art. 26, para. 1). Paragraph 2 of the same article leaves it to the law to establish effective safeguards against the abuse, or any use contrary to human dignity, of information concerning persons and families. These safeguards may consist in the application of penal and civil sanctions. Penal legislation punishes behaviour such as violation of domicile or correspondence, abusive recording and divulging of pictures or conversations, and divulging of facts relating to the intimacy of private life. Civil sanctions, for their part, are aimed at providing the possibility of reparation for material or moral damage suffered by the victims of behaviour which breaches the right to privacy. Lastly, paragraph 3 of article 26 provides that deprivation of citizenship status and restrictions on civil capacity may be applied only in cases laid down by the law and may not be politically motivated. The importance attached to the preservation of identity is further evidenced by the fact that article 19, paragraph 6, of the Constitution includes the rights to personal identity, civil capacity and citizenship among those which may not be affected by the declaration of a state of siege or emergency.

51. The Nationality Act (Act No. 37/81 of 3 October 1981) establishes that persons originating from another State who declare that they do not wish to be Portuguese lose Portuguese nationality. The loss of Portuguese nationality thus depends on the wish of the person who desires to relinquish it. It should be noted that those who have lost nationality as a result of a declaration made while they were incapacitated may reacquire it, when capable, by means of a further declaration.

52. With regard to change of name, the general rule established in the Civil Registration Code is to subject it to authorization by the Minister of Justice (arts. 129 and 347), obtained through a special procedure governed by the same Code. Activation of the procedure rests with the person who seeks to change his name, on whom it is incumbent to justify and substantiate his action.

53. In certain cases where the requested changes are minor or stem from alterations in the juridical status of the person concerned (marriage, adoption), the civil registrar is authorized to change the name.

C. Freedom of expression (art. 13)

54. The Constitution guarantees freedom of expression to everyone (art. 37, para. 1). All persons, children included, thus have the right to express themselves and freely manifest their thoughts in words, images or any other medium. The right of expression covers not only the right to be unimpeded from freely manifesting one's thoughts but also that of access to the means for disseminating them. A reflection of this principle is the right of reply, covered in article 37, paragraph 4, according to which all persons have the right of reply and rectification as well as the right of compensation for damage suffered.

55. Together with freedom of expression, the Constitution recognizes the right of information. This includes the right to inform, in other words to disseminate information; the right to information, which consists of freedom to seek information; and also the right to be informed, which consists of the right to be sufficiently and accurately informed, whether through the mass communication media or by public bodies.

56. The only limits on the exercise of the rights to expression of thought and to information stem from the declaration of a state of siege or a state of emergency: in situations which threaten the safeguarding of sovereignty, independence, territorial integrity or constitutional order (state of siege), or in coping with particularly serious events such as public disasters (state of emergency) (Act No. 44/86 of 30 September 1986).

57. In addition to these situations, account must be taken of restrictions stemming from the need to protect certain interests, associated with the protection of the moral integrity, good name and reputation of citizens. Outside the situations referred to, article 37 of the Constitution is clear in providing that the exercise of freedom of expression and information may not be restricted by any type or form of censorship.

D. Access to appropriate information (art. 17)

58. The Constitution (art. 38) guarantees freedom of the press, placing on the State the duty to ensure the freedom and independence of the mass communication media vis-à-vis the political and economic powers. The State must also ensure the existence and operation of a public radio and television service.

59. Act No. 87/88 of 30 July 1988, relating to the exercise of broadcasting activity, considers that the general aims of broadcasting are, inter alia, to contribute to the information and cultural development of the population, to uphold and promote the Portuguese language, and to foster the exchange of ideas, the exercise of freedom to criticize and the inculcation of habits of civic coexistence appropriate to a democratic State. The same ideas are developed in the statement of the specific aims of broadcasting, where it is affirmed that broadcasting has the task of contributing, through balanced

programming, to the instruction, recreation and educational and cultural advancement of the general public, taking into account the diversity in age, occupation, interests, region and origin. Express mention is made of its duty to promote the creation of educational or training programmes aimed specially at children and young persons. In the same spirit, Act No. 58/90 of 7 September 1990 includes broadcasting in the overall purposes of activities aimed, on the one hand, at contributing to the recreation and educational advancement of the public, taking into account the diversity in age, occupations, interests and origin, and, on the other, at facilitating the exchange of ideas between Portuguese and foreign citizens; among the specific aims, we would make particular mention of encouragement for the creation of educational or training programmes, targeted chiefly at children, young persons and cultural minorities.

60. As regards television broadcasting, programming is independent; with the exception of the courts, no public administration office or other authority may impede or impose conditions on the broadcasting of any programme whatever. There are, however, certain limits. Thus, it is not permitted to broadcast pornographic or obscene programmes, programmes which incite violence or c ime or any which undermine fundamental rights, freedoms and guarantees. The broadcasting of programmes likely to have an adverse influence on the development of children and adolescents, or impress other particularly vulnerable viewers, is likewise subject to conditions.

61. Nowadays there is a clear grasp of the importance of the mass communication media as a paramount means of conveying to people in general, and to children in particular, messages and ideas of the most varied kind. Mindful of this, the Ministry of Education has launched a campaign, under the general heading "Education is for all", which makes considerable use of the mass communication media. The essential aim of this campaign is to create a public awareness of the social, economic and democratic consequences of low levels of education, to mobilize communities on behalf of their schools and to foster recognition of the importance of access to knowledge, culture, the arts, science and technology. With regard to the mass communication media, these ideas can be disseminated through the distribution to the local and regional press and radios of texts on the essential ideas of this campaign, through the broadcasting of television commercials, through the radio broadcasting of campaign slogans and through the holding of radio and television round tables on the importance of the nine years of compulsory schooling.

62. The Portuguese authorities attach great importance to international cooperation to facilitate the production, exchange and dissemination of information and documents of social and cultural usefulness for the child. The concern should be noted, in that context, to promote Portuguese reading matter for children abroad; hence, for example, the activity at book fairs where children's literature occupies an important place. The special historical and cultural ties which Portugal maintains with Portuguese-speaking African countries have led to the establishment of special cooperation with those countries, with repercussions in the sphere under consideration. Thus, through the National Library and Book Institute (IBL) (Decree-Law No. 106-E/92 of 1 June 1992), considerable packages of publications are offered to them, particularly children's works, which are in great demand. A Portuguese

presence at book fairs organized in those countries is likewise encouraged, always with a strong emphasis on children's books, and with efforts to involve Portuguese writers. The latter, and other professionals involved in the writing, illustrating and publishing of children's books, are also urged to develop training activities with their counterparts in Portuguese-speaking African countries. NGOs, too, carry out work to promote children's literature in those countries. One recently organized campaign was highly successful; it appealed to all Portuguese, particularly the student population and schools, to contribute a sack of rice and a book for the children of Mozambique. In the other direction - namely, the effort to bring the Portuguese public (and children, in regard to works particularly aimed at them) more into contact with foreign literary output - mention should be made of the promotion, by means of various forms of support and inducement, of the work of translators, as well as of the contribution made, through IBL, to the accuracy and quality of translations and to the training of translators.

63. With regard to fostering the production and distribution of children's books, mention should be made of the National Library and Book Institute (IBL), referred to previously; its work relating to book information and reading includes the sphere of children's books and also covers the readership of children and young persons. The IBL has the task of promoting Portuguese non-educational books within the country and abroad, promoting Portuguese literature at the national and international levels, and fostering the development of reading habits, inter alia, by means of mass communication entities. Attention is drawn, in that regard, to a number of publicity initiatives launched with a view to stimulating interest in reading.

64. The Book Services Department has the special task of supporting literary output and book dissemination. Noteworthy, with regard to the latter, is the collaboration with local authorities, schools and recreational groups, inter alia, through the provision of technical assistance in matters such as title selection for children's and young persons' literature. Also to be noted is the system of programme contracts between the IBL and local authority bodies for setting up libraries incorporated into the public reading network. These libraries have a children's book section and a so-called "story room", to encourage reading with groups of children. The Book Services Department has the further tasks of collaborating in the preparation of a bookshop support programme, helping to improve the book distribution network and promoting Portuguese book exports, particularly to Portuguese-speaking countries or those where Portuguese communities are found. Although, in the publishing field, State support to publishers is envisaged, for example by means of fiscal and financial inducements, and despite the existence of publishing support programmes, no support measure is envisaged with regard to the publishing of children's books, since the publishing risk factor that these measures serve to counter does not apply in the case of children's literature, which, in Portugal, is expanding rapidly and attracting great interest on the part of publishers.

65. Portugal is a linguistically homogeneous State, relatively little sought after as a destination for immigrants. Moreover, as will be noted in the part of the report dealing with children of ethnic minorities (chap. VIII, sect. D), a large proportion of the immigrant community is of Portuguese-speaking origin. Despite the relatively small number of foreign

citizens and the even smaller number of those not having Portuguese as their mother tongue, legislators have sought to take account of the linguistic needs of immigrant populations by allowing the use of foreign languages in the mass communication media. Thus, the aforementioned laws on radio and television broadcasting activities allow foreign-language transmissions in certain circumstances, such as in response to particular information needs or when the broadcasting of cultural or music programmes from other countries is involved. As well as the possibility of broadcasting in languages other than Portuguese, government authorization for a radio broadcasting operation may include permission for the operator to transmit in a foreign language either to listeners abroad or internally in cases of local stations. There is one radio station in Lisbon which broadcasts in French. With regard to the press, the existence of foreign-language publications is to be noted.

66. Access by children to the mass communication media, information in general, and public events and entertainment has to be governed by some criteria. Such access should be made conditional on the stage of development concerned. Thus, for example, television broadcasting of programmes liable to have an adverse influence on the personality development of children or adolescents, especially the screening of particularly violent or shocking scenes, must be preceded by an express warning accompanied by suitable identifying signs, and may not take place before 10 p.m.

67. Access to pornographic or obscene material is likewise prohibited for children. Decree-Law No. 254/76 of 7 April 1976 forbids bill-posting or showing in public places, sales display or sale, exhibition, broadcasting or publicity in any form of such material, except in appropriate premises which must be run exclusively for such purposes and duly authorized to that effect. Such premises may not exhibit, in windows or places visible to the public, pornographic or obscene material and articles; they must be located at least 300 metres away from places of worship, educational establishments, parks or kindergartens. Sales in such shops are forbidden to minors under 18 years of age (Decree-Law No. 647/76 of 31 July 1976).

68. In this connection, it is also worth mentioning the Advertising Code (Decree-Law No. 330/90 of 23 October 1990), which contains specific rules on advertising addressed to minors. Account must always be taken of the psychological vulnerability of the recipient and care should be taken not to:

(a) Directly incite minors, by taking advantage of their inexperience or credulity, to purchase a given product or service;

(b) Directly incite minors to persuade their parents or third parties to purchase the products or services in question;

(c) Include items capable of jeopardizing their physical or moral integrity, particularly by incitement to violence;

(d) Exploit the special trust which minors have in their parents, guardians or teachers.

The use of minors in advertising is only permitted where there is a direct connection between them and the product or service being advertised.

69. The ban on any advertising that encourages behaviour harmful to the health and safety of the consumer, particularly by failing to provide adequate information as to the inherent danger of the product, or where its use is likely to cause accidents, and the ban on any visual representation or description of situations in which there is insufficient regard for safety, are particularly emphasized where the advertising in question is targeted at children or adolescents. The advertising of alcoholic beverages and the introduction of tobacco or pornographic material of any kind either in a teaching establishment or in publications, programmes or activities especially intended for minors are also prohibited.

70. The Code of Good Advertising Practice of the Portuguese Association of Advertising Agencies provides that advertising should not exploit the natural credulity of children or the lack of experience of adolescents, nor abuse their sense of loyalty, and that any advertising aimed at or liable to influence children and adolescents should not contain any statement or visual element which might cause mental, moral or physical disturbance.

71. Finally, it must be said that Decree-Law No. 396/82 of 21 September 1982 establishes a minimum age for admittance to certain types of entertainment: 4 years for sports, circus or bull-fighting events, musical concerts and similar events, opera and ballet; 12 years for admittance to dance halls; 16 years to enter nightclubs and similar. Films and plays are classified as follows: (a) for 18-year-olds and above, those containing pornographic scenes and extreme forms of physical or mental violence; (b) for 16-year-olds and above, those which excessively exploit sex or physical or mental violence; (c) for 12-year-olds and above, those which because of their length or complexity, might cause younger spectators undue fatigue and/or mental trauma; (d) for 6-year-olds and above, those which, because of their subject or length, do not meet the criteria for the higher age groups; and lastly, (e) for 4-year-olds and above, short, easily understood shows which do not cause fear or conflict with the imagination and playfulness of this age group (Order No. 245/83 of 3 March 1983).

E. Freedom of thought, conscience and religion (art. 14)

72. The Constitution guarantees everyone, including children, freedom of conscience, religion and worship (art. 41). The exercise of these freedoms, particularly the first two, has been extensively safeguarded by constitutional law, so that article 19, on the suspension of the exercise of rights provides, in its paragraph 6, that in no case may a declaration of a state of siege or emergency affect, among other things, freedom of conscience and religion. This rule is confirmed by Act No. 44/86 of 30 September 1986 (regulations pertaining to the state of siege and the state of emergency).

73. The constitutional guarantee that no one may be persecuted, deprived of rights or exempted from civil obligations or duties because of his religious beliefs or practices (art. 41, para. 2) derives from religious freedom. This rule merely implements in this area the principles of equality and non-discrimination proclaimed in article 13 of the Constitution. Also according to the Constitution, no one may be questioned about his religious beliefs or practices by any authority, except for the purpose of gathering statistical data which cannot be identified individually, nor may a refusal to

reply be detrimental to him (art. 41, para. 3). It must be emphasized that the ban on questioning of this type applies both to the public authorities and to private organizations.

74. The freedom to teach any religion and use its means of public information in pursuit of its activities are safeguarded (art. 41, para. 5).

75. Mention should also be made of the right of conscientious objection (art. 41, para. 6) which justifies the non-performance of obligations and of acts which are at variance with a person's conscience. Conscientious objection does not only apply to military obligations; it can also be based among other things on moral, philosophical or religious grounds.

76. In Portugal, the principle of separation of Church and State is established in article 41, paragraph 4, which means that the State remains neutral in religious matters and that the Church and other religious communities have freedom to organize and to hold religious services. The neutrality of the State is apparent in religious education in schools, for example. Hence the affirmation in the Constitution that the State shall not arrogate to itself the right to plan education and culture in accordance with any philosophical, aesthetic, political, ideological or religious guidelines and that public education shall not be denominational (art. 43, paras. 2 and 3). That does not mean that there is no religious education in schools. Taking into account the extent to which the Catholic religion is represented in the country, Decree-Law No. 323/83 of 5 July 1983 established regulations to control Catholic religious and moral education, thereby carrying out the State's duty to cooperate with parents in educational matters and its duties with regard to teaching generally. In all State primary, preparatory and secondary schools, therefore, Catholic religious and moral teaching is provided to children if their parents expressly request it. Catholic religious and moral teaching is the sole responsibility of the Catholic Church.

77. It would be contrary to the principles set forth in the Constitution to limit religious teaching to the Catholic faith. The freedom to teach any religion means that the various faiths must have equality of opportunity to teach the fundamental principles of their religion during the pupil's school year. Decree No. 104/89 of 16 November 1989 therefore provides that the religions established in Portugal can provide their own moral and religious education in the State schools, provided that they make an appropriate application to the Ministry of Education. For each religion, the holding of classes in any school depends on there being at least 15 pupils for each course. Classes are taken by the teachers proposed by the respective religious authority. These rules do not apply to faiths teaching or seeking to teach morality or religion which is contrary to the fundamental principles of Portuguese society and its legal order, particularly the values protected by law. Lastly these principles also apply to private and cooperative schools provided that there is prior agreement between the religious authority and the school management. A further consequence of the Portuguese legislature's respect for the religious beliefs of students is that pupils whose religion sets aside a day of rest and worship other than a Sunday may be excused from classes on that day and may sit their examinations on a different date.

F. Freedom of association and of peaceful assembly (art. 15)

78. The Portuguese Constitution guarantees all citizens freedom of association (art. 46) and the right to meet and demonstrate (art. 45). With regard to freedom of association, the right of citizens to form associations freely and to join previously established associations is recognized. Their right not to join an association is also recognized, as is that to leave freely any associations which they might have joined. The right of associations to pursue their aims freely, without interference from the public authorities, and their right not to be dissolved by the State or have their activities suspended, except in the cases provided by law and always by legal decision, is also recognized.

79. Freedom of association has some limitations. The first, of a general nature, derives from article 46, paragraph 1, and prohibits the forming of associations intended to promote violence or having objectives contrary to criminal law. The second, deriving from article 46, paragraph 4, involves the banning of armed, military-type, militarized or paramilitary associations and organizations with a fascist ideology. This constitutional principle is developed by Decree-Law No. 594/74 of 7 November 1974. The free exercise of the right of association for purposes not contrary to the law or public morality is also guaranteed, without the need for prior authorization. However, associations whose aims are the overthrow of democratic institutions or the advocacy of hatred and violence are prohibited. It must be pointed out, however, that this Decree-Law guarantees the right of association only to persons over the age of 18, although younger persons may also benefit under special laws. A bill has recently been tabled in Parliament aimed at regulating the formation of associations by persons below the age of 18.

80. With regard to youth associations, the right of students to form associations or join those of the teaching establishments which they attend, and to participate in association life, including the right to elect and to be elected to positions in the association, is expressly recognized (Act No. 33/87 of 11 July 1987). These associations are independent of the State, political parties and religious and other organizations, and are autonomous. They have the right to have their own facilities within the teaching establishment, and to manage them in order to pursue their activities; they may also have the material and technical support of the State which, inter alia, may take the form of: (a) legal support in respect of formation and operation; (b) documentation, bibliography and legislative information on matters of interest to students; (c) cooperation in social and cultural activities; (d) supply of equipment and facilities to develop their activity. Other rights enjoyed by students' associations include special support for their media associations, air time on radio and television, tax exemptions of various kinds, and reduced postal and telephone rates. Individuals and legal entities financing cultural or sports projects for these associations may benefit from tax allowances or exemptions.

81. In addition to these rights, which apply to all students' associations, there are specific rights for associations in higher and other types of education. We shall refer only to the latter as they alone can involve children. These may participate in school life, especially in the following areas: (a) definition of educational policy; (b) regular information on

legislation relating to their educational level; (c) support for school management and social activities; (d) participation in the organization of school-related activities and school sports. They also have the right to State financial support to enable them to develop their teaching, cultural, social and sports activities, and to receive annually 75 per cent of students' contributions to school-related activities.

82. Decree-Law No. 152/91 of 23 April 1991, taking into account the importance of the work of students' associations, and especially of their leaders, and the time needed to achieve results, permits them to be absent from classes to attend meetings of the groups to which they belong or to take part in activities of obvious importance to the association.

83. The Youth Institute has been established under the Council of Ministers by Decree-Law No. 483/88 of 26 December 1988, its main function being to support the youth association movement. The Youth Institute was responsible in particular for creating a national register of youth associations which lists the composition and functions of all associations, at least two thirds of whose members are under 30 years of age, and at least 60 per cent of whose executive body is composed of young people under 30 years of age (Order No. 140 - A/89 of 25 February 1989). The associations included in this register may apply for State support (Order No. 841 - A/90 of 15 September 1990). This can cover training, information and documentation, legal support, management, organization and evaluation of activities, including the provision of equipment and facilities. Organizations connected with youth groups and associations may receive support for international exchange visits.

84. Mention should also be made of the Youth Advisory Council (Decree-Law No. 381/87 of 18 December 1987), a consultative body within the government department responsible for youth affairs, which advises on policy matters. Representatives of students' associations, both from the universities and the secondary schools, and organizations of youth groups and associations participate in this Council.

85. At the local level, mention should be made of the increasing support given by the local authorities to the youth associations in their areas. An increasing number of authorities have a youth department, and more and more support young people directly through their representative associations. Lisbon, the country's biggest urban authority, is a good example in this respect. It supports recreational, scientific or cultural projects submitted to it by the city's youth and students' associations. This support may take the form of subsidies, the provision of facilities for certain activities, assistance in carrying out work, supply of equipment, etc.

86. It is also important to mention the establishment of a Municipal Youth Council, to enable young people to play a greater role in defining municipal policy. This Council is composed of all the youth associations in the city of Lisbon and operates as a consultative body of the city, meeting once a year. When it is not in session, there is a permanent council, consisting of a smaller number of associations, which is responsible for preparing the meetings of the full Municipal Council and a series of debates, held periodically, which are intended to enable young people to express their

views on municipal activities in their particular areas of interest, the problems and needs of young people and the support they consider desirable. The views and suggestions of young people are appreciated by the members of the city authorities and are frequently taken up, one example being the opening of libraries on Saturdays. With the active participation of young people from the various associations, the city authorities are developing a series of activities marking important dates or occasions for young people, such as students' day, youth day and youth week, the opening and closure of the academic year, etc.

87. As has already been said above, all citizens (including children) have the right to demonstrate and meet in public, peacefully and without arms.

G. Protection of privacy (art. 16)

88. The Constitution recognizes the right of all citizens to the protection of the intimacy of their private and family life (art. 26, para. 1). This right is twofold: the right to prevent access by third parties to information on private and family life and the right to prevent the disclosure of information on these aspects. The latter is reaffirmed in article 80 of the Civil Code, which adds that the extent of the privacy depends on the situation and status of the individual. The Penal Code also establishes penalties for certain acts which adversely affect this right, such as the disclosure of information relating to the intimacy of private life (art. 178), unlawful recordings or photographs (art. 179), intrusion into private life (art. 180) and breach of professional secrecy (art. 184).

89. Other constitutional provisions related to this article, which safeguard the right established therein, are those of article 34, which guarantees the inviolability of the home and of correspondence, and article 35, which concerns matters relating to the use of data processing. With regard to the inviolability of the home, it must be emphasized that entry into the home depends on the wishes of the person living there. The Penal Code (arts. 176 and 177) provides punishment for anyone who enters and remains in the home of another person or premises forbidden to the public against the will of the lawful occupant. Exceptions to this rule are cases in which entry is ordered by the courts in the situations and manner prescribed by law. However, not even the courts may authorize entry into the home during the night.

90. With regard to the inviolability of correspondence, article 34, paragraph 4, prohibits interference by the public authorities with correspondence and telecommunications, except where criminal procedure may be involved. Under article 179 of the Code of Penal Procedure, judges can order the seizure of correspondence. The monitoring and recording of telephone conversations or communications can only be permitted or ordered by a judge in certain circumstances. Evidence obtained by means of wrongful interference in private life, in the home, with correspondence and telecommunications is inadmissible. (Constitution, art. 32, and Code of Penal Procedure, art. 26).

91. The inviolability of correspondence and communications also applies to individuals. The Penal Code provides punishment for any breach of secrecy of correspondence and telecommunications committed by mail, telegraph, telephone or telecommunications employees (art. 434), by former employees (art. 435)

and by non-employees (arts. 182 and 183). The right to secrecy of private correspondence and communications means that violation of the right is prohibited and that the right to non-disclosure by persons who have access to it, particularly for professional reasons, is safeguarded. The Civil Code also devotes a number of articles (75 et seq.) to the duty to maintain secrecy in respect of the content of letters, other written communications and pictures.

92. Decree-Law No. 90/83 of 16 February 1983, which establishes detention centres for young persons between the ages of 18 and 21, provides for measures concerning the screening of the correspondence of young detainees. Correspondence written by or sent to young people may only be examined to prevent the introduction of forbidden objects, the forming of criminal relationships or the commission of acts undermining the security of the detention centre. Similar regulations exist for minors in youth care centres.

93. With regard to the use of data processing, article 35 of the Constitution grants all citizens the right of access to files and records concerning them, and their right to request that the contents thereof should be corrected and brought up to date (para. 1). Access to data files or records for the purpose of extracting personal information about third parties and for the interconnection of those files is forbidden, save in exceptional cases provided for by law (para. 2). Computerized processing of data concerning a person's philosophical or political persuasions, party or trade union affiliation, religious beliefs or private life is not allowed, except in the case of processing of data that are not individually identifiable (para. 3). The Penal Code (art. 181) also provides sanctions for certain violations of privacy by computerization, especially the unlawful creation of files containing personal data.

94. Article 26 of the Constitution guarantees everyone the right of respect for his good name and reputation, thereby protecting honour and dignity. Anyone who infringes this right is liable to punishment under the Penal Code for the crimes of defamation and insult (arts. 164 and 165 respectively). Article 26, paragraph 2, of the Constitution calls for the establishment of effective safeguards against the abuse or use contrary to human dignity, of information concerning individuals and families. These guarantees include indictment and criminal sanctions for certain types of conduct, as well as civil sanctions, such as compensation for moral and/or material damage suffered by the victims or measures ordered by the court, particularly interim relief.

H. Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

95. In Portugal, the death penalty cannot be imposed in any circumstances (Constitution, art. 24). This rule is based on the inviolable nature of human life under Portuguese law, as already mentioned (para. 35 above). The Constitution also prohibits punishment or security measures involving deprivation or restriction of freedom for life or for an unlimited or indefinite term. It adds that persons who are sentenced to a penalty

or security measure involving deprivation of freedom continue to enjoy fundamental rights, subject only to the limitations that are inherent in the conviction and the requirements of its enforcement (art. 30).

96. Torture and cruel, inhuman or degrading treatment or punishment are banned by the Constitution (art. 25, para. 2), which is based on the inviolable nature of the moral and physical integrity of the individual, recognized in paragraph 1 of the same article. The prohibition of such treatment or punishment thus includes that which may affect a person's physical and moral integrity. As with the right to life, personal integrity is not affected by the declaration of a state of siege or emergency (art. 19, para. 6, of the Constitution). Reaffirming the provision of article 32, paragraph 6, of the Constitution, article 126 of the Code of Penal Procedure invalidates any evidence obtained by torture or force or, generally speaking, by any offence against the physical or moral integrity of the individual.

97. Portugal has ratified the International Covenant on Civil and Political Rights, the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and also the European Convention on Human Rights. With regard to the Covenant and the latter Convention, it should be pointed out that Portugal recognizes the individual's right to bring a complaint.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Parental guidance (art. 5)

98. We have already had occasion to mention the constitutional provisions establishing the importance of guidance by parents for rearing their children. Article 68 states that "Fathers and mothers shall have the right to protection from society and the State in performing their irreplaceable task with regard to their children, namely as concerns their education", and article 67, paragraph 2 (c), stipulates that "The State shall have the duty of protecting the family ... by cooperating with parents in the education of their children".

99. The Civil Code defines parental authority (art. 1878), and stipulates that it is for the parents, in the interest of their children to ensure the children's safety and health, to support them financially, to direct their education, to represent them, even before their birth, and to administer their assets. However, as stated earlier, parents should take their children's views into account in important family matters, in accordance with their maturity, and allow them to organize their lives independently (Civil Code, art. 1878, para. 2). Portuguese legislation is therefore in conformity with article 5 of the Convention on the Rights of the Child.

100. Naturally, a number of social work agencies are responsible for parental guidance, especially the social security bodies in the case of very young children and the school system for children having attained school age. The social work agencies, whether public or private, are increasingly aware of the need to hold a dialogue with parents. An example is the role of parents' associations, which are attracting increasing participation in the schools.

The State also recognizes the importance of private and cooperative education, as a concrete expression of the freedom to learn and to teach and of the right of the family to guide children's education.

B. Parental responsibilities (art. 18, paras. 1 and 2)

101. According to Portuguese family law, parental authority should be exercised in the framework of a stable marriage by both parents acting in agreement. If the parents cannot agree on issues of particular importance, one of them may apply to the courts, which will first seek reconciliation. Only where this is not possible will the court decide, after hearing children over 14 years of age (art. 1901).

102. As regards parents who are not married but for both of whom the blood relationship has been established, parental authority is exercised by the parent who has custody of the child. However, it is sufficient for the parents to declare to the registrar that they wish to exercise parental authority together in order for parental authority to be given to both of them. In such cases, however, the parents must be living together (art. 1911).

103. In cases of de facto or de jure separation of the parents, parental authority will be assigned with the parents' agreement, subject to approval by the court. The court will refuse parental authority only when the parents' wishes are not in the best interests of the child. If the parents disagree, the court will decide who is to have custody of the child, in keeping with the child's interests (art. 1905, paras. 1 and 2). Unless, exceptionally, it is not in the best interests of the child, a visiting system for the parent without custody is established. This parent is also entitled to supervise the child's education and living conditions (arts. 1905, para. 3, and 1906, para. 3).

104. In cases where it has been decided that the child is to be removed from his family environment, as a result of administrative or judicial measures, the parents continue to exercise parental authority in all matters not incompatible with the measures taken, as stated in the section on the best interests of the child (paras. 27-34).

105. In order to help mothers and fathers exercise their responsibilities, mothers are guaranteed special rights having to do with the biological cycle of motherhood; both mothers and fathers receive protection from society and the State in performing their irreplaceable task with regard to their children, namely as concerns their education (Act No. 4/84 of 5 April 1984 and Decree-Law No. 135/85 of 3 May 1985, which provides regulations for it in the framework of the public administration). Women are given the right to free doctor's visits and tests ordered by their doctor during pregnancy and for 60 days following the birth. They are also entitled to 90 days' maternity leave, 60 of which must be taken after the birth. Workers have the right to up to 30 days of leave each year in order to take care of children under 10 years of age in case of illness or accident; if a child is hospitalized, the leave extends to the entire hospitalization period. Workers with at least one child under 12 years of age have the right to a reduced work schedule or to flexitime. Fathers and mothers also have the right to interrupt their

career for a period of six months, which may be extended to a maximum of two years, beginning at the end of the maternity leave period, in order to be with their children.

C. Separation from parents (art. 9)

106. We repeat that, according to the Constitution (art. 36, para. 6), "Children shall not be separated from their parents unless the latter fail to perform their fundamental duties towards the former, and then only by judicial decision." Without the parents' agreement, therefore, children can be separated from them only by judicial decision. With the agreement of the parents, the natural family can be temporarily replaced if it is not able to fulfil all its functions. A significant response from the social welfare point of view is the foster family (currently governed by Decree-Law No. 190/92 of 3 September 1992); families considered suitable to provide this service temporarily take in children and young people whose natural families are not in a position to fulfil their social and educational role. A very important new development in the legislation in force is the possibility of giving the natural family the maintenance subsidies that a foster family would receive, in all cases where the natural family's inability to fulfil its social and educational role is due exclusively to severe economic problems. By this means it is also hoped to ensure that separation from parents takes place only when the natural family's ability to fulfil its educational role is exhausted.

107. The separation of children from their parents can also occur as a result of circumstances involving ill-treatment, abandonment, failure to support the children or deviant social behaviour. In such cases, the action taken may be administrative - handled by minors' protection boards - or judicial - handled by juvenile courts. As stated earlier, if the parents are not in agreement, the action taken is always judicial. These aspects will be discussed in detail in the sections of the report that deal explicitly with such situations.

D. Family reunification (art. 10)

108. The legislation in force on the arrangements for aliens' entry into, stay in and expulsion from the national territory (Decree-Law No. 59/93 of 3 March 1993) stipulates that one of the criteria to be considered in evaluating an application for a residence permit is the possibility of family reunification (art. 28, para. 1 (d)). The law adds that the following family members are to be taken into account: spouse and minor or incapacitated children or adopted children and ascendants of the individual or his or her spouse provided that they are his or her dependants. It also provides that a refugee's travel document (one of the travel documents issued by the Portuguese authorities for aliens) can include a single person or the holder and his children or adopted children under 10 years of age (art. 39).

109. Concerning entry of alien minors into the national territory, the competent supervisory authority can refuse entry (without prejudice to tourism or children's exchange programmes) to alien minors under 18 years of age if they are not accompanied by the person exercising parental authority or when

no one will take responsibility for their stay in the national territory. An individual residence permit is required for minors aged 14 and over and must be requested by the respective legal representative.

110. Concerning article 10, paragraph 2, it should be emphasized that the Constitution guarantees to all nationals the right to emigrate or to leave and re-enter the national territory.

E. Recovery of maintenance for the child (art. 27, para. 4)

111. Portuguese legislation does not provide the possibility for the State to advance the maintenance to which minors are entitled and subsequently recover the amount from the parent who has failed to pay. There are, however, several arrangements for making payment of maintenance more flexible, in particular the direct deduction, by court order, of the amounts due from the turnover or salary of the defaulting parent. Portugal is a party to the 1956 New York Convention on the Recovery Abroad of Maintenance and to the 1958 and 1973 Hague Conventions on the Recognition and Enforcement of Decisions relating to Maintenance Obligations. It is also a party to the 1968 Brussels Convention and the 1988 Lugano Convention on Jurisdiction and the Enforcement of Judgements in Civil and Commercial Matters, which contain provisions on maintenance obligations.

F. Children deprived of a family environment (art. 20)

112. As stated in the discussion on article 9 (para. 106), recent legislation (Decree-Law No. 190/92 of 3 September 1992) deals with protection of children temporarily deprived of a family environment. This system is aimed at providing the child or young person with an appropriate social and family environment for the development of his personality, for as long as the natural family's circumstances are not considered to be adequate. According to social security statistics, in 1991 1,795 children were in foster care provided by 1,314 families. Another societal response to the situation of minors needing to find a permanent replacement for their natural family is adoption. Adoption is widespread in Portuguese society, with the number of adoption cases decided by the courts having risen from 285 in 1984 to 435 in 1992. Children's and young people's homes are another means of providing care for minors needing temporary or permanent replacement of their natural family. In 1991, 11,055 children were placed in institutions having a cooperation agreement with the social security system. This figure does not include the city of Lisbon, where social work is under the responsibility of the Santa Casa da Misericórdia, which has its own homes. Nor does it include the Casa Pia, an institution with a lengthy tradition (it was established at the end of the eighteenth century) which runs several establishments on a live-in or semi-live-in basis, providing care for hundreds of children and adolescents.

113. The social security sector conducts other activities aimed at improving the protection of children deprived of a family environment. Examples are the establishment, often in cooperation with the Ministry of Justice and private agencies, of temporary reception centres for serious and urgent situations; the holding of discussions with foster families in order to analyse issues relating to the children's stay and upbringing, especially their relations

with their natural family; efforts to bring children and young people placed in homes closer to the community by providing the children with time spent in families and the community with an opportunity for acquiring a better understanding of these institutions and seeing them as an integral part of the community.

G. Adoption (art. 21)

114. A thorough revision of the adoption system in Portugal was conducted in 1977, made necessary by the provision of the Constitution which prohibited distinctions between legitimate and illegitimate children; a further revision was later conducted in an effort to meet the requests that had arisen. Fifteen or so years later, recent legislation (Decree-Law No. 185/93 of 22 May 1993) has ratified the new legal system for adoption. It is believed that the new legislation maintains the importance of this institution and that the changes in the adoption system bring out its full potential and strengthen it as one of the most important resources for responding to the situation of children deprived of a normal family environment.

115. Among the procedural and substantive changes made by the new legislation, the minimum age required for adoptive parents has been lowered in certain cases, and the number of years of marriage needed before adoption has also been reduced. The age limit for being adopted has been raised, while the age limit for adopting has been lowered, because it is felt that the spirit of the institution, which is aimed at creating a link similar to that of the blood relationship, so requires. Adoption can be ordered by judicial decision only, and it must present genuine advantages for the child being adopted. Participation by the social security agencies at the pre-adoption stage is governed by law, in order to guarantee proper and harmonious proceedings at all stages.

116. Care has been taken to limit the regulations for inter-country adoption, which had been provided for but not made explicit in the previous legislation, to those areas most in need of clarification and most delicate, in keeping with article 21 of the Convention. Thus, whenever it can be shown that adoption in Portugal is valid, the placing of children abroad with a view to their adoption is not permitted. Adoption is also conditional upon a judicial decision on the minor's custody, whenever he is living in Portugal. Portugal is a party to the European Convention on the Adoption of Children and took part in the travaux préparatoires for the Hague Conference on Private International Law, which dealt with the problems of adoption of children abroad.

H. Illicit transfer and non-return (art. 11)

117. Portugal is a State party to the Hague Convention on the Civil Aspects of International Child Abduction of 25 October 1980, the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (Luxembourg, 20 May 1980) and the convention on judicial cooperation concerning the protection of minors of 20 July 1983 between the Government of the Portuguese Republic and the Government of the French Republic. The goal of all these conventions is to combat the illicit transfer and non-return of children over international

frontiers; the third convention mentioned - the bilateral France-Portugal convention - is broader in scope. The central authority for all the conventions is the Ministry of Justice, through its Department for the Protection of Minors. In the case of the bilateral convention with France, the central authority for maintenance questions is the Legal Services Department. The Portuguese central authorities have cooperated with the Centre for Judicial Studies (Portuguese National Magistrates' School) in training future judges to use the conventions that they will be enforcing.

I. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39)

118. The values protected by article 19 of the Convention are automatically protected under Portuguese criminal legislation. The Penal Code (arts. 153 and 254) lays down punishment for fathers, mothers, guardians or, generally, anyone who is responsible for the care or custody, guidance or education of a minor under 16 years of age who, out of meanness or selfishness, ill-treats or is cruel towards a minor, fails to give him the health care or assistance required by his relationship to the minor, uses the minor to perform dangerous, prohibited or inhuman activities, or overburdens him with work that is physically or intellectually excessive or inappropriate. Concerning sex crimes - discussed in detail below - the minor's age is specially taken into account in general classifications of offences (for example, rape - art. 201, para. 2), and there are crimes for which the minor's age is a key element in the classification (art. 204 - seduction, art. 207 - homosexuality with minors).

119. Under the Civil Code (arts. 1915 and 1918), parental authority may be removed from parents who violate their duties towards their children; parental authority can also be limited when there are no grounds for removal but the minor's safety, health, character development or education are endangered. Both limitation and removal of parental authority must take place by judicial action. Recent legislation on adoption considers that any child may be legally entrusted to a couple, an individual or an institution, with a view to future adoption, if the parents, by action or omission, endanger his safety, health, character development or education to such an extent that the emotional ties inherent in the parent-child relationship are seriously jeopardized.

120. Under the legislation on the protection of minors contained in Decree-Law No. 314/87 of 27 October 1987, one of the circumstances triggering the jurisdiction of the juvenile court is the fact that minors have been the victims of ill-treatment or are in a situation of abandonment or lack of support potentially dangerous for their health, safety, education or morals. The minors' protection boards established by Decree-Law No. 189/91 of 17 May 1991 according to judicial district are also responsible for detecting facts affecting the rights and interests of minors or jeopardizing their health, safety, education or morals and for guiding and assisting minors and their families and deciding to implement protection measures for those who are victims of ill-treatment or are in danger.

121. The physical and psychological recovery and social reintegration of children who have been the victims of negligence, exploitation, ill-treatment

or cruel or degrading treatment is a question of deep concern to all the services and agencies that work with children and even to public opinion in general. These situations are being given increasing attention today, with a view to early detection and the provision of immediate care to children and families. The protection required by article 39 of the Convention is given by official or private agencies. At the official level, both the social security services and the system of justice conduct activities aimed at the physical and psychological recovery of children who have been victims of ill-treatment or negligence, according to their sphere of competence.

122. The health agencies, especially hospital paediatric departments, have also shown deep concern for the problem of ill-treatment of children, with particular attention given to identifying children in such situations and providing them with immediate care, often through interdisciplinary teams especially formed for that purpose, and to reporting them to the competent administrative or judicial agencies in order for them to be provided with protection. In the past year, Council of Ministers decision No. 30/92 established the "Family and Child Support Project" intended, on the one hand, to provide medical, psychological and educational care for child victims of physical or psychological violence whose situations are detected in health or hospital centres, and on the other, to give their families therapeutic and psycho-social support and help them to organize themselves and gradually develop their sense of responsibility and affection towards their children in such a way as to enable them to play their role as parents. Recently, the Ombudsman also began to show a keen interest in the protection of children against abuse and ill-treatment, through the establishment of a direct telephone line for their complaints.

123. An example of private agency activities is the "SOS for Children" telephone line established by the Child Support Institute, which is a telephone service providing support, information and guidance for problem situations involving children and families in crisis. Its features are anonymity and confidentiality, and it receives calls from throughout the country on the most varied situations of children in danger, such as ill-treatment, sexual abuse or abandonment and negligence. Since 1989 the Institute has also been conducting a street project involving children at risk or in marginal situations. It involves an educational process on an open basis, aimed at providing support for children in Lisbon who live more or less permanently in the street (whose situation will be discussed later on) and seeking, together with the children, alternatives to their current lifestyles.

124. Some bodies have established agencies intended specifically for taking in child victims of ill-treatment or abandonment, on an emergency basis. This is true of the "Children's Emergency Service", which runs a "refuge" in the southern part of the country (Faro) providing specialized medical and psychological care for children in such situations (disabled children in particular). Another such agency is the Portuguese Association for Child and Family Law, which, in cooperation with municipalities in the Lisbon area, has established "care centres" for children in the above-mentioned situations, where multidisciplinary teams (made up, as appropriate, of paediatricians, child psychiatrists, psychologists, social workers and lawyers) help children organize their lives so as to overcome the traumatic situations they have experienced.

J. Periodic review of placement (art. 25)

125. The protection laid down in article 25 of the Convention is aimed at recognizing the right of a child who has been the subject of a placement measure to a periodic review of that measure. This right is explicitly established only in the case of children who have been institutionalized as the result of a decision by the juvenile court (para. 202 below). In such cases, the minors' protection system requires the management of the institution holding the minor to review the minor's situation at the end of every two-year period dating from the court's previous decision. For its part, the management of the institution must inform the court, within 30 days following the end of every year of placement or institutionalization, as to the development of the minor's personality and his behaviour. Although the legislation on foster families (Decree-Law No. 190/92 of 3 September 1992) does not expressly require periodic review of the measure, staff work together with the foster family and natural family to monitor the child's situation step by step.

VI. HEALTH AND WELL-BEING

A. Survival and development (art. 6, para. 2)

126. Approximately 21 per cent of the Portuguese population are aged under 15 and almost 30 per cent under 19. Recent years have seen the ageing of the population, caused by progress in science and technology and by the decrease in the effective birth rate (11.1 per 1,000 inhabitants in 1989) and the low fecundity rate (1.5 children per woman). This situation has led to growing interest in the health of children, the creation of favourable conditions for their development and the assured replacement of generations having become goals in themselves. This interest and the corresponding efforts are clearly beneficial, trends in infant and child survival indicators having proved favourable. In fact, these indicators, which in the 1970s put Portugal in an unfavourable position in relation to the rest of Europe, today show a less embarrassing situation. Perinatal, neonatal and infant mortality has fallen considerably. In 1990, the relevant rates were 12.4, 6.9 and 10.9 per 1,000, showing a decrease of 6 to 7 percentage points from the 1985 levels. However, the rates recorded are still disturbing in some regions where living conditions are more backward, especially as regards nutrition and hygiene/health standards.

127. The recent favourable trend in the development of children is attributable to numerous factors and circumstances. Fundamentally, it results from the consolidation of the primary care network, the growing importance attached to disturbances in development and behaviour, chronic illnesses and accidents, the increased support for children with special needs or in a particularly vulnerable situation, the extension of paediatric activity up to the age of 14 (in 1974, paediatrics was limited to care of children up to the age of 7), and the drastic reduction in infectious diseases, largely due to the mass vaccination of children.

B. Disabled children (art. 23)

128. Not enough is known about the situation of disabled children. There are no studies providing a complete diagnosis of the extent of the situation in this respect or indicating the kinds and degrees of disability from which Portuguese children most commonly suffer. It is nevertheless estimated that between 10 and 12 per cent of children suffer from disability - physical, motor, hearing, communication or learning - to an average or moderate extent.

129. Article 71 of the Portuguese Constitution establishes that a physically or mentally disabled citizen shall enjoy all his rights, thus obliging the State to pursue a national policy of prevention, treatment, rehabilitation and integration for the benefit of disabled persons. More than any other person, a disabled child needs special care and support and must not be marginalized within the family and the community. The past decade has witnessed an effort to integrate the disabled child, essentially on the initiative of parents' associations, teaching and rehabilitation cooperative associations (CERCIS), and private institutions specially concerned with children suffering from problems of this type (notably the Portuguese Association of Parents and Friends of Mentally Disabled Citizens - APPACDM). The State supports all these organizations and institutions, granting subsidies and other financial support. Maintenance allowances, paid by the State are available to families with disabled children, and parents receive a certain amount of financial support, notably exemption from tax when buying vehicles for the transport of disabled children. There has also been a concern to stimulate and promote the creation of facilities which make it easier for disabled persons to use public premises and areas, especially with regard to transport and pavements. Local authorities have participated in these efforts. In the areas of schooling and preliminary apprenticeship, special schemes have been set up for certain forms of disability.

130. However, many deficiencies remain with regard to facilities and family support for persons suffering from average or serious mental disabilities. National coverage by specialists in various types of disability, notably speech therapists, physiotherapists, child psychiatrists, hearing and speech specialists and occupational therapists, is still low; existing specialists normally practise privately, which means that they are too expensive for most Portuguese families. At present, at the suggestion of the National Commission on Child Health, the establishment of district coordination units is under study, with the objective of coordinating support for all types of disability in children. This support will be based on the regional and district child development centres, which will also be set up and will carry out their activities in direct cooperation with the health centres.

C. Health and medical services (art. 24)

131. Generally speaking, Portuguese children now enjoy a standard of health which may be regarded as acceptable. However, beyond the problem of disabilities, to which reference has already been made, some quite serious situations exist. Genetic diseases give rise to particular concern because, interfering as they do with physical and/or intellectual development, they generally become chronic owing to lack of adequate treatment. They may also

affect several members of the same family. Moreover, genetic anomalies give rise to other situations which have to be taken into account, notably miscarriage (frequency greater than 50 per cent in the first three months of pregnancy), perinatal mortality (20-30 per cent), infant mortality (30-35 per cent) and hospitalization (about 30 per cent).

132. In these situations, early prenatal and postnatal diagnosis is of fundamental importance in identifying the disease and anomaly, and helping the parents and health specialists to take the most appropriate decisions and actions concerning therapy. In Portugal, this requirement cannot yet be said to have been completely fulfilled. According to a recent report by the National Commission on Child Health, only the north of the country has sufficient institutions to respond to problems of this type (Medical Genetics Institute, Genetics Department in São João Hospital and Paramyeloidosis Research Centre), while serious shortcomings exist in the central and southern regions.

133. Some chronic diseases are fairly serious, particularly congenital heart disease, renal insufficiency, cystic fibrosis and recently AIDS, in both those who are infected and those who show symptoms of the disease. Dental decay is also very widespread, affecting 85 per cent of nine-year-olds. It is estimated that 25 per cent of Portuguese children receive fluorine supplements. Allergies and other forms of hypersensitivity also affect a large number of Portuguese children; in 1990, 7 per cent of children treated at D. Estefânia Hospital were seeking relief from allergies with asthma attacks.

134. In teenagers, early pregnancy (whether or not followed by abortion) is also common, together with depression and other psychiatric diseases, notably personality disturbances with manic-depressive behaviour often leading to suicide. The true extent of all these situations is not known because the necessary epidemiological and other studies have not yet been carried out. Recent statistical data show that accidents involving children are also too frequent, especially accidents in the home, involving children up to the age of 6, and accidents caused by motor vehicles involving the age range 15 to 18, which are reaching levels in the order of 66 per cent. In this connection, reference should also be made to the disturbing health problems of the children of the ethnic minorities, notably those originating from the former Portuguese colonies who have not been properly integrated into the national health system because they are in many cases living in Portugal clandestinely, despite the efforts of the authorities to regularize their situation.

135. The Constitution guarantees to all citizens in general, and to children in particular, the right to necessary health care in conditions of equality. This principle is broadly developed and regulated in Act No. 48/90 - the Health Framework Law - of 24 August 1990. This Act establishes the principle that the health system is based on primary health care, its objectives thus being the promotion and maintenance of mother/infant and child health and the reduction of mortality, morbidity and disability rates. The secondary objectives, which follow from the primary objectives, are the prevention of disease, the diagnosis and care of pathological situations, and the rehabilitation of disabled children, and are a constant concern of the National Health Service. Assistance and support for the most vulnerable

families or families with vulnerable children still constitute an unachieved goal, in accordance with which special care corresponding to their needs will be made available to them.

136. The promotion of child health in Portugal begins on a preventive basis through the primary care given to pregnant women, who receive free assistance in the health centres and their out-clinics, which number 354 and 1,895 respectively nationwide. The mother-to-be receives periodic examinations, and mother-and-child counselling and education throughout her pregnancy. Birth control instruction and counselling are other activities. An important step in this area has been the association of the above-mentioned services with hospital care guaranteeing identification of risks, treatment of abnormal situations and genuinely assisted childbirth (at present about 95 per cent of babies are born in hospital). This link did not become possible until 1990, with the establishment, in all mainland districts, of the Functional Coordination Units (UCFs), pursuant to the Ministry of Health's Mother and Child Programme. At the same time, facilities and installations at health centres were upgraded, and perinatal support hospitals and differentiated perinatal support hospitals have been approved. It will not be possible to evaluate the results of these measures until the end of 1994, the date scheduled for completion of the programme in question.

137. Specialized child-health primary-care units exist within the health centres. Generally speaking, these units only treat children under the age of 12 or 13. Although a circular from the Directorate-General for Hospitals makes it clear that children up to the age of 14 years and 364 days must be treated in paediatric services, this does not happen in practice, according to the recent report of the National Commission on Child Health. It may thus be concluded that many adolescents are excluded from these specialized services and are not seen by specialists specifically trained to deal with their particular needs. In the health centres, children undergo regular examination, especially during the first years of life, for the purpose of the early detection of disabilities and congenital deficiencies. All children are vaccinated against poliomyelitis, diphtheria, tetanus, whooping cough, measles, mumps and German measles; BCG vaccination is also mandatory during the first days of life. The inclusion in the mandatory vaccination schedule of vaccination against hepatitis B for all children belonging to the internationally defined risk groups is at present under discussion. The national mandatory vaccination plan has so far reached only 90 per cent of the target population. Primary child-health care also includes health education for families, particularly with regard to child nutrition. Breast-feeding is encouraged and, when necessary, food aid is provided for children of needy families. Although breast-feeding has increased, particularly when the baby is still in a maternity clinic (breast-feeding rates are between 90 and 98 per cent in some hospitals), it tends to decline rapidly as from the first month of life, particularly during the second and third months.

138. Although the situation with regard to hospital care is better than in recent years, it is still unsatisfactory. In the above-mentioned report of the National Commission on Child Health, it is stated that most paediatric hospitals and services were designed and organized at a time when paediatrics covered a small age group and was intended to meet needs that are now obsolete. In Portugal, there are 3 paediatric hospitals and 51 paediatric

departments in central and district hospitals. The capacity of these departments is, however, insufficient, with the result that in some cases children have to be hospitalized with adults, with inevitable adverse consequences. It should be added that various difficulties are preventing the full realization of the rights established in the Bill of Rights of the Hospitalized Child, some of which were expressly embodied in Act No. 21/81 of 19 August 1981. This situation is reflected in intensive paediatric care. Such care is provided in a few central hospitals, with a small number of beds - lower than what is regarded as the necessary minimum for the child population. The situation is exactly the same with regard to paediatric emergencies, although the problem is lessened by the various forms of "front-line" treatment given in the 24-hour emergency services (SAPs), which are available to adults and children alike.

139. In all the health services specially geared to the treatment of children, the number of paediatricians is still insufficient, especially in the various specialized branches. The situation is exactly the same with regard to paediatric nursing. Specific training is given to nursing staff who attend families with sick children, whether hospitalized or not, and help them to take appropriate action (specialized higher course in infant and paediatric nursing - Decree-Laws Nos. 480/88 and 437/91 of 23 December 1988 and 8 November 1991, respectively). However, the number of nurses with such training is still very small.

140. Every child enrolled in the school system benefits from school health care, which is free of charge and essentially prophylactic in nature. The care is provided by doctors and nursing staff specializing in school health, and is essentially intended to identify illnesses and disabilities and to promote health education among children. However, national coverage is low, as is frequency of coverage in the areas where it exists.

D. Social security and child-care services and facilities (arts. 26 and 18, para. 3)

141. Article 63 of the Constitution provides that all persons are entitled to social security, the State having an obligation to organize and subsidize a system which protects citizens in situations of illness, old age, disability, unemployment and all situations where their means of livelihood or fitness for work are reduced or non-existent, citizens who have lost their spouse and children who have been orphaned. The social security system (Act No. 28/84 of 14 August 1984) comprises a general scheme applicable to all workers, including those employed by others and self-employed workers, and a non-contributory scheme intended for persons who are not affiliated to the general scheme and find themselves in a situation of need. The existence of these two schemes is to a large extent accounted for by the fact that a comprehensive social security scheme covering all workers was established only recently (by the Constitution of 1976); there are some people, in the more elderly segments of the population, who have never been covered by a social security scheme.

142. The general scheme and the non-contributory scheme, although divergent in many respects as regards the guarantees they provide, are fairly similar with regard to family benefits, notably those granted to children. Both schemes

grant similar amounts in the form of a family allowance and a breast-feeding allowance (during the first 10 months of life), and a number of special allowances for disabled children (supplementary allowance, special education allowance). The general scheme also includes an allowance payable at the time a child is born. However, although the amounts of the benefits are periodically updated, they are small - below the cost of maintaining a child.

143. As has already been stated in this report, the Constitution, in guaranteeing fathers and mothers the right to the protection of society and the State in the performance of their irreplaceable role with regard to children, adds that this must be done "with a guarantee of professional performance". It has also been stated that the Constitution imposes on the State the duty, for the protection of the family, to "promote the establishment of a national network of nurseries and institutions providing support for the family", a task in which private social-solidarity institutions may participate. Reference has already been made, in paragraph 32, to the circumstances in which these institutions may be set up and are inspected by the State. It should be added at this point that, as private social-solidarity institutions for the care of children while their parents are at work, nurseries (for children up to the age of three), kindergartens (for children aged between three and six) and leisure-time activity centres (for school-age children out of school hours) may be established. Also permitted are private commercial institutions operating in the various areas mentioned. Nurseries and leisure-time centres must be approved by the social security authorities, while kindergartens must be approved by the Ministry of Education, as will be indicated in chapter VII on education.

144. Up to the 1970s, there were few or no institutions of this type (leisure-time centres, for example, are of recent origin). With the democratization of the country resulting from the Revolution of April 1974, their number has increased rapidly and significantly, but still does not meet existing needs. Recent social-security data indicate that, in the social-security institutions, the number of places in day nurseries and kindergartens increased from 87,292 to 105,099 between 1987 and 1992. Over the same period, the capacity of leisure-time activity centres increased from 33,458 to 60,262. Even if the places available in commercial establishments - which charge high fees and are accessible only to the most affluent sectors of the population - are added to these figures, it is apparent that availability nationwide is very inadequate. For this reason, recourse to maternal assistants ("child minders") is very common. These are women who, in return for payment, look after a small number of children in their own homes. They have generally had no specific training and undertake this activity without any form of guidance or supervision. Attempts had been made to introduce legislation and supervision concerning these situations, and "child minders" have been permitted to conclude arrangements with the social security authorities. However, few have taken advantage of this possibility.

E. Standard of living (art. 27, paras. 1-3)

145. In Portugal, there are a number of provisions whereby certain resources may be granted to citizens to enable them to live in dignity, even in situations of particular difficulty or adversity. These provisions

include, in particular, the guaranteed minimum wage for workers and recognition of their right to an allowance when they are unemployed. In the specific case of young people from needy families, the granting of an "integration allowance" to assist them while they are looking for their first job was provided for by Decree-Law No. 156/87 of 31 March 1987, the amount of the allowance being equal to that of the social benefit (mentioned below). Social security also provides minimum protection in cases of unfitness for work, notably illness or industrial accident, disability or old age. In the two latter cases, coverage may be extended to the non-contributory scheme, resulting in the payment of a social benefit. In the event of the death of a worker, his spouse and children are entitled to a monthly survivor's pension, which is generally equal to half what he would have received as a pensioner at the time of his death. Under the non-contributory scheme, provision is made for a pension to be paid to orphaned children up to the time when they reach their majority. The social security services may also grant benefits to persons in need, notably children and young people.

146. However, the amounts payable under social security, although periodically updated, are very small and are manifestly not commensurate with the cost of living. Thus, for example, the old-age and disability pensions are about half the minimum wage, and the social benefit (on the basis of which the orphan's pension is determined) does not even reach this level. Moreover, wage levels are low, especially in occupations which require only a limited amount of schooling. In these circumstances, it must be acknowledged that, although the standard of living has risen in recent decades, a significant proportion of the population are still living in straitened circumstances. Portugal has, in fact, received substantial support from the European Social Fund, on the basis of which it has developed various poverty-eradication programmes.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, training and vocational guidance (art. 28)

147. The right to education is provided for in articles 73-76 of the Constitution. All children and young persons are entitled to free training, with equality of opportunity and without discrimination based on sex or socio-economic status. Efforts are made to guarantee this right regardless of the child's place of residence, even if it is abroad. All children who have a residence permit in Portugal or are in equivalent circumstances are admitted to national official schools (however, EEC Directive No. 77/486 of 25 July 1977, which encourages support for children who speak only a foreign language - the "language they speak at home" or "mother tongue" - is not yet being implemented).

148. The right to education is given effect through the education system, the basic principles of which are embodied in the Framework Act on the Educational System (Act No. 46/86 of 14 October 1986). The Act applies to three levels of education: pre-school, academic and extra-curricular education. We shall refer in greater detail to pre-school and academic education, particularly at the primary and secondary levels, which relate most directly to the situation of children aged under 18 years.

149. Pre-school education is designed for children aged between 3 and 6 years. It is optional and its purpose is to supplement and/or fill the gaps in education by the family, with its close cooperation, whenever possible. In Portugal, 32 per cent of 4 and 5-year-olds attend pre-school. This is partly because the network of kindergartens at the national level is still not extensive enough and partly the result of cultural habits. Since it is a well-known fact that children from underprivileged groups must be given particular educational encouragement and the environment that is lacking in the family by means of pre-school attendance, a programme to increase pre-school attendance to nearly 90 per cent for 5-year-olds by 1994 and by 50 per cent for 3 to 5-year-olds is already in the design stage. Part of this programme is an itinerant education project intended for children who live in remote areas and are too few in number for the establishment of a kindergarten.

150. Primary education is free of charge and compulsory for all children as of age 6. The Framework Act on the Education System increased the length of compulsory schooling to nine years (compared to pupils enrolled in the first year in 1987-1988), whereas only six years were compulsory under the earlier legislation. After obtaining the primary-school diploma, children may enter secondary school, which is optional and lasts three years. A wide range of general and technical courses are offered, either in secondary schools or in vocational schools established by Decree-Law No. 70/93 of 10 March 1993. Data for 1990 indicate that only 48 per cent of 18-year-olds in Portugal have completed secondary school. The Technical, Artistic and Vocational Education Office of the Ministry of Education therefore carries out a broad-ranging campaign each year to provide ninth-graders with information on and to increase their awareness of possibilities of continuing their studies according to their abilities and their wishes.

151. Young persons aged between 15 and 18 years who have not completed compulsory schooling at the right age or who wish to continue their studies beyond that level may take "continuing education courses" which are a "special education modality" that is also public and free of charge. With curricula adapted to the students' needs and on the basis of a method that guarantees their participation in the educational process at all times, this "second training opportunity" is regarded as a very good bet that has proved to be highly successful.

152. "Special education modalities" include "special instruction", which is intended for students with special educational needs who attend pre-primary, primary and secondary schools (Decree-Law No. 319/91 of 23 August 1991 and, as far as pre-primary education is concerned, Order No. 611/93 of 23 June 1993). The special education system adapts normal teaching conditions to the characteristics and particular features of every child with special learning needs. Adaptations may take the form of changes in curricula or teaching materials and different conditions for enrolment, attendance, evaluation and increased attention by teachers. In the most complex situations, an individual study plan is drawn up; it accompanies the child throughout his school years and is adapted as necessary. Children who are generally gifted are also covered by this education modality. At the national level, unfortunately, there are still few teams involved in special education for children who need it.

153. The number of students per teacher ranges from 26 to 34. In classes which have students with special educational needs, the number cannot be higher than 20 students per teacher and there cannot be more than 2 such students in the same class (Decree-Law No. 319/91 of 23 August 1991). At present, the school year is 184 days long (it used to be slightly shorter). Daily classroom time is between five and six hours in primary school and between six and seven hours in secondary school.

154. In accordance with the principle of equality of opportunity in access to education and school success, as provided for in the Framework Act on the Education System, all students are entitled to compensatory measures which take the form of extra attention and support. By comparison with students in non-higher education in official, private and cooperative schools, such extra attention and support are provided in the areas of school social welfare, health, psychological support and academic and vocational guidance. School social welfare takes the form of the full or partial payment, depending on the families' financial situation, of the cost of transport, school insurance, food (in school canteens and cafeterias), accommodation, books and other teaching materials (from school stationers). In practice, very few students benefit from such measures. We have already dealt in detail with school health in chapter VI on health. With regard to the last type of support mentioned, the Framework Act on the Education System provides for psychological services and academic and vocational guidance to promote the psychological development of students and to provide them with academic and vocational guidance, as well as psychological and pedagogical support for educational activities. Decree-Law No. 190/91 of 17 May 1991 set up such services in school districts and contains regulations relating to their operation. However, such structures are still weak and few schools benefit from them.

155. The problems of students who drop out or are academic failures have long been matters of concern. Substantive measures that have been adopted to help solve these problems include the Interministerial Programme to Promote Success in School (PIPSE), which was created in 1987 for a period of five school years. It was designed primarily for pupils in the first few years of primary education, encompassed six government departments and local government bodies and included measures on the improvement of nutrition, the regular provision of primary health care (diagnosis and prevention), the strengthening of special education, support for needy and vulnerable families, the use of free time, sports and psychological and pedagogical support for pupils and teachers. In all, the programme covered about 9,000 schools and 600,000 students. The provisional results of the evaluation show that success rates increased by about 8.5 per cent from 1987 to 1992.

156. In order to ensure PIPSE's continuation, a new interministerial programme, the "Education for all" programme, is being implemented in two stages. The first stage, which is designed to make compulsory schooling generally available, will continue until 1995; the second, which is designed to ensure access to and attendance at secondary school by the majority of young people, will last until the year 2000.

157. Disciplinary authority in schools is exercised by the competent management bodies, except in the case of extremely serious acts, when such authority is transferred to the Guardianship Minister. Although the applicable law (Order No. 679/77 of 8 November 1977) states that, in the enforcement of penalties, account must always be taken of the education nature of disciplinary measures, penalties include warnings or even temporary expulsion from all official schools. Since there is no typical school disciplinary offence, the institution of proceedings depends on the judgement of the person assessing the facts. The defendant is guaranteed the rights of the defence and may be represented by the person who exercises parental authority or the person responsible for his education, if they are not the same. Only penalties which are not within the jurisdiction of the Minister of Education may be appealed against, and the appeal must be brought before the Minister.

158. The reorganization of the education system has also had an impact on the administration of schools, the training of teachers and school structures. A new school administration and management system entered into force in 1989 (Decree-Laws Nos. 43/89 and 172/91 of 3 February 1989 and 10 May 1991, respectively). Schools enjoy cultural, pedagogical, administrative and financial autonomy - naturally, on the basis of respect for the principles and teaching policies defined by the Ministry of Education - reflecting a regionalized and decentralized approach to management. Through the Ministry of Education, the central authority is responsible for devising educational, teaching and sports policies. The regional education departments, of which there are five throughout the country, are mainly responsible for executive functions and for providing guidance, coordination and support for non-higher-education academic establishments at the regional level. The regional departments, which are governed by Decree-Law No. 141/93 of 26 April 1993, set up educational action centres that carry out their functions at the municipal level.

159. The initial training of teachers is mainly the responsibility of the State and, in particular, of public universities and institutes of higher learning. However, teachers are also trained in private or cooperative universities and institutes approved by the State. The ongoing training of teachers is based on a new model and is one of the main focuses of the reform of the education system. Its main purposes are to improve the vocational skills of teachers in their fields of activity and to enable them to learn new skills which are connected with their field of specialization and are required as a result of the differentiation and modernization of the education system. Training bodies may also be public, private or cooperative. The Ongoing Training Coordinating Council was established to coordinate the entire ongoing training system for teachers at the national level, thereby guaranteeing the credibility of training and its adaptation to the development of educational reform.

160. The Ministry of Education is responsible, through the various regional departments, for facilities and equipment. However, primary-school facilities are the responsibility of the State and local government bodies. In 1987, there was a shortage of about 400 schools nationwide. With the support of the Education Development Programme for Portugal (PRODEP), it has been possible to

reduce this shortage as a result of joint efforts by the central Government and local government bodies. According to the forecasts, the shortage should have been eliminated by 1995. Efforts have also been made in recent years to modernize structures and equipment.

B. Aims of education (art. 29)

161. The aims of education referred to in article 29 are recognized by the Portuguese education system; most of them are expressly provided for in the Framework Act on the Education System and some are even given constitutional recognition. One example is the idea that education must serve to develop the personality, as stated in article 73, paragraph 2, of the Constitution and in the Framework Act on the Education System, which considers that contributing "to the full and harmonious development of the individual's personality" is a general principle of the system. The idea is reaffirmed and expanded on in the provisions on pre-school and academic education.

162. The Framework Act also states that the education system must be organized in such a way as to "contribute to the protection of national identity ... by making Portuguese citizens aware of their cultural heritage". In accordance with this idea, it is considered that primary education is responsible "for increasing knowledge of and a taste for the characteristic values of Portuguese identity, language, history and culture". It is nevertheless specified that "fidelity to Portugal's historical matrix" must be reinforced "on the basis of the European universalist tradition, growing interdependence and the necessary solidarity among all the peoples of the world" or, as stated elsewhere, "in the perspective of universalist humanism, solidarity and international cooperation".

163. Reference was made above to the Commission for the Promotion of Human Rights and Equality in Education, whose objectives include the promotion of human rights in schools. Reference will be made in paragraph 169 below to the establishment in the last few years of primary school of a civic education course for participation in democratic institutions.

164. On the basis of the general principles of education, the Framework Act on the Education System formulates the idea that the system should promote "the training of free, responsible and autonomous citizens who stand together", as well as "the development of a democratic and pluralist approach which is based on respect for others and their ideas and is open to dialogue and to free exchanges of opinions". The specific rules relating to the various levels of instruction take up this idea, providing that the objectives to be achieved by these levels of instruction include, for example, developing "a sense of responsibility, associated with a sense of freedom" (pre-school education), helping to "train citizens with a sense of civic responsibility who take a democratic part in community life" (primary education) and "training ... young persons who are interested in solving the country's problems and who are aware of the problems of the international community" (secondary education). As far as efforts to ensure equality between men and women are concerned, the education system is required to be organized in such a way as to "ensure equality of opportunity for persons of both sexes, in particular, through co-education and academic and vocational guidance".

165. Although teaching children to respect the environment is not referred to in the Framework Act on the Education System, it is a value and an objective to be achieved. This topic is included in school curricula and is now one about which children are very concerned. School contests and exhibits on this question are frequently organized, and youth ecology groups have been established.

166. Private and cooperative education is recognized by the Constitution as a specific expression of freedom to learn and teach and of the right of the family to decide on the education of their children. These types of education are governed by their own regulations, which have to be in keeping with the Framework Act on the Education System. They are supported pedagogically, technically and, in some cases, financially by the State, which also supervises them. As a form of recognition and appreciation of these types of education, the school network was reorganized in 1991-1992, on the basis of teaching experience, and involved some public, private and cooperative schools. However, most investment in education is public. In 1990, public expenditure accounted for 9.8 per cent of gross domestic product, whereas private expenditure accounted for only 0.2 per cent.

C. Leisure, recreational and cultural activities (art. 31)

167. In addition to the general guarantee of the right to culture, as safeguarded by article 73, the Constitution provides for the right of young people to cultural training and the use of their free time (art. 70). All matters relating to cultural training, the pedagogical use of free time and sports for children and young people are dealt with in legal texts, in accordance with these basic principles.

168. The principle that curricular activities must be supplemented by activities geared to the full training and personal development of students in order to encourage them to use their free time creatively and for training purposes is embodied in the Framework Act on the Education System. Such activities are not compulsory and may, for example, be primarily play-oriented or involve the artistic education or integration of children and young people in community life. In this connection, sports are of particular importance, since the Act considers it desirable for students to practise sports throughout their time at school. The number of schools which offer such activities is still very small, especially because of the shortage of qualified staff. In the context of PIPSE and during its limited duration, a broad programme of play and free-time activities was developed with the participation of 260,000 students and 12,500 monitors.

169. In recent years, there has been a possibility of including training and cultural activities in school curricula as a result of what is known as "the school unit" provided for in Decree-Law No. 286/89 of 29 August 1989 and Order No. 782/90 of 1 September 1990. This "unit", which is compulsory and on which between 95 and 110 hours are spent, is intended to develop traditional "skills" by means of various activities and to combine school, the environment and the students' personal and social training.

170. In connection with recreational and training activities for children, special mention must be made of the role played by local government bodies,

the Catholic Church and other agencies, which have set up leisure centres, particularly after school hours and during holiday periods, in order to provide support for children and parents, who are often faced with the problem of not being able to provide for the care of their children while they are absent as a result of professional activities, which are now usually engaged in both by fathers and by mothers.

171. Particular attention is also drawn to the efforts made by the Child Support Institute to promote the establishment of play centres and guarantee the right of children to play. The Youth Institute referred to in paragraph 83 also encourages and coordinates leisure programmes for young persons and tries to increase their awareness and give them incentives to organize cultural, recreational, artistic and sports associations. Youth associations receive technical and financial support directly from the State. They also receive financial support from cultural patronage. Exchanges by young people and their associations with young people from other countries are encouraged through the National Youth Information Centre, a department of the Youth Institute (Regulatory Decree No. 46/88 of 26 December 1988).

172. Decree-Law No. 237/92 of 27 October 1992 establishes safety requirements and sets standards for the manufacture and marketing of toys with a view to protecting children, especially those aged under 14 years, who are particularly exposed to the risks involved in playing with toys. Offenders are liable to heavy fines and other penalties and may also incur civil or criminal liability.

VIII. SPECIAL PROTECTION MEASURES

A. Children in emergency situations

1. Refugee children (art. 22)

173. The right of asylum is guaranteed by the Constitution for foreigners and stateless persons who are victims of persecution or who are seriously threatened with persecution because of their activities on behalf of democracy, social and national liberation, peace among peoples, freedom and human rights (art. 33, para. 6). The law (Act No. 70/93 of 29 September 1993) also guarantees the right of asylum for foreigners and stateless persons who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, are unable, or owing to such fear, are unwilling, to return to the State of their nationality or customary residence.

174. Until recently, asylum was still granted, on humanitarian grounds, to foreigners and stateless persons who were unwilling to return to the State of their nationality or customary residence because of insecurity due to armed conflict or the systematic violation of human rights in that country. However, the sudden increase in the number of applications for asylum in 1993 (1,233 in the first six months alone, as compared with 233 and 535 in 1991 and 1992, respectively), in a country not used to the presence of refugees, who number barely more than 500, and whose socio-economic structures are not strong, has recently made it necessary to cease providing humanitarian asylum,

which has been replaced by the opportunity offered to persons in such a situation to benefit from special conditions governing residence permits.

175. In the procedure for granting asylum, it is necessary to go through the National Commissioner for Refugees - an office held by a magistrate of more than 10 years' standing - and the representative in Portugal of the United Nations High Commissioner for Refugees. For the duration of the procedure the applicant and his family receive housing and food support, in cases of economic difficulty. This support ceases once asylum is granted. The decision to grant asylum confers refugee status on the applicant, which may be extended to the spouse and unmarried or legally incompetent under-age children (or the parents, if the applicant is under 18 years of age). Refugees have the same rights and duties as resident foreigners in Portugal. In accordance with the 1951 Geneva Convention, refugees have the right to receive identity papers attesting to their status.

2. Children in armed conflicts (art. 38), including physical and psychological recovery and social reintegration (art. 39)

176. Under the Constitution (art. 8), the rules and principles of general or ordinary international law are an integral part of Portuguese law; duly ratified or approved rules derived from international conventions apply in turn in municipal law following their official publication. Portugal has ratified the 1949 Geneva Conventions and the Additional Protocols thereto. There thus exists a national duty to protect the civilian population, especially children, in the event of armed conflict.

177. The Portuguese Red Cross is one of the oldest bodies in the country, having been founded in 1865. Since, at the present time, there is no armed conflict in the country, this body provides relief and welfare services, particularly in cases of accident or public disaster. In addition to these activities, the Red Cross has since 1975 provided a tracing service, established in the wake of decolonization for the purpose of locating persons reported missing, especially as a result of disasters or armed conflicts.

178. In accordance with legislation on military service (Act No. 38/87 of 7 June 1987, as amended by Act No. 22/91 of 19 June 1991), only citizens over the age of 18 are liable for military service and subject to the resulting obligations. However, young men who have reached the age of 18 are allowed to volunteer for service in the armed forces with the permission of those vested with parental authority.

179. Portugal, which did not suffer within its territory from the two World Wars, was involved in colonial conflicts from the early 1960s until 1974. The restoration of democracy in the country at that date immediately launched the process of decolonization, with all the colonies gaining their independence shortly thereafter (except for Timor, occupied by Indonesia, and Macao, under Portuguese administration since the sixteenth century, which will be returned to China in 1999). Perhaps for these reasons, scant thought has been given in recent years to the need for measures to promote reintegration aimed specifically at child war victims. (However, it is worth recalling that, during the Second World War, Portugal helped hundreds of children from the belligerent countries, especially Austrian children. For years those children

lived with Portuguese families, with whom they developed emotional ties which in many cases they have maintained throughout their lives.) Nevertheless, in recent years, child victims of armed conflicts in their regions of origin have been received in the country. A case in point, back in the 1970s, involved the children from the community of Timor who sought refuge in Portugal following the occupation of their territory by Indonesia. Another case, in more recent years, was that of the children from Angola and a small group of children from Bosnia. Generally, these children came in the company of members of their families - mothers in the case of the children from Bosnia - and every possible assistance was given to them by official bodies, in particular social security and health services, private welfare associations and religious communities (the Bosnian immigrants were particularly helped by the Islamic community).

180. Activities designed to help child war victims in their own countries have also been undertaken. For example, fund-raising campaigns have been organized for the children of Angola and Mozambique, in particular by UNICEF, the mass media and youth associations. International Medical Assistance (IMA) has also provided local assistance to war victims in the former Yugoslavia and the former Portuguese colonies.

B. Children in conflict with the law

1. Administration of juvenile justice (art. 40)

181. The administration of justice in respect of children in conflict with criminal law is governed by different principles according to whether they are under or over 16 years of age. Generally speaking, however, it can be said that the child's age is always borne in mind and that an effort is made to ensure - exclusively in the case of children under 16 and predominantly in the case of those over 16 - that the measures taken have an educational effect and contribute to social reintegration.

182. Under Portuguese law, minors under the age of 16 are exempt from criminal liability. If they commit an offence which, were it perpetrated by an adult, would be treated as a crime, they are subject to the provisions of the Act on the Organization of Care for Minors (OTM), the current version of which was approved by Decree-Law No. 314/78 of 27 October 1978. This enactment provides for the application of supervisory measures of protection, assistance and education, under similar conditions, to children (under the age of 16) who have committed criminal offences and those who engage in begging, vagrancy, prostitution, debauchery, abuse of alcoholic beverages or illicit use of narcotics, who are found to have serious difficulties in adapting to normal social life, who are victims of ill-treatment or who, through being abandoned or lacking assistance, are in situations that can present a risk to their health, security, education or morals. The number of children arraigned for criminal offences has decreased in the last decade, dropping from 2,185 in 1981 to 1,352 in 1991. These numbers represented, respectively, 75.1 per cent and 55.7 per cent of juvenile court hearings.

183. The non-retroactivity of criminal law is guaranteed by the Constitution. However, this principle does not automatically apply to juvenile cases, which are guided by principles different from those governing criminal law.

Given that the purpose of official action is to protect and educate the minor, the offence committed is not of great importance and can be expected to be taken into account only as a "symptom" of maladjustment. More important than the offence committed are the child's living conditions and family situation. For this reason, official action will be possible if the minor's behaviour reveals that he is suffering from maladjustment or lack of assistance that may be at the origin of the court hearing.

184. Since children under the age of 16 can never be considered "guilty" of offences they may commit, it is clearly meaningless to speak of "presumption of innocence". Notwithstanding, the courts seek to form a clear idea of the offence committed by the child, in particular by questioning him and arranging for an investigation to be carried out. This necessarily involves checking the accuracy of the facts as recorded. In any case, factual evidence is not considered to be of decisive importance since it will not determine the court's decision, which will be reached in the light of the child's living conditions and family situation.

185. The right of children under the age of 16 to be informed promptly, either directly or by the persons exercising parental authority, of the facts leading to official action (as has been said, one cannot speak of "charges") is not expressly provided for. In fact, however, this information is generally provided. The OTM lays down that a child who is found by a law officer in a situation likely to result in judicial action may be brought forthwith before a judge, who will listen to him and inform him. Moreover, procedural steps include questioning the child and taking statements from parents or persons with custody of the child. Welfare officers, on commencing the investigation, inform children and/or the parents of the acts ascribed to them. There is no legal provision for children to receive legal aid since, not being considered "guilty", they are not required to present a "defence".

186. Cases involving children over the age of 12 are entrusted to a judicial organ. In the cities, there are specialized juvenile courts. In the rest of the country, jurisdiction over children is exercised by the district courts. The juvenile courts are courts of specialized jurisdiction, thus enjoying the independence specific to the judiciary. They usually operate as single-magistrate courts. However, in more serious cases, they have a collegiate structure, being composed of a professional magistrate and two lay magistrates chosen by the municipal authorities from among members of the electorate with responsibility for assisting, training and educating minors. As for cases involving children under the age of 12, most of these are entrusted nowadays to protection boards, to which we have already referred and which are discussed in greater detail below (see paras. 193-195). These boards, although socio-administrative in nature, enjoy independence in the exercise of their functions, which they discharge in accordance with the law taking into account the best interests of the minor and not being subject in their decisions to orders or instructions from any authority.

187. The purpose of court action is to defend the rights and interests of children. The law expressly entrusts to the representative of the government procurator (known as the "curador de menores") the task of defending the rights and interests of minors. However, for the purposes of appeal, the law already provides at this stage for recourse to a lawyer. At the juvenile

court sessions, especially hearings concerning placement in "youth care centres", the parents of the minor or the person with responsibility for the minor are required to appear. In the specific case of protection boards, the parents or legal representative of the child, together with a lawyer of their choosing, are allowed to attend the sessions, and the minor is also able to be accompanied by a person who enjoys his confidence.

188. The judicial proceedings are very straightforward and informal. The inquisitorial principle prevails during the hearing, with any evidence being admitted that the judge considers necessary and that he orders or allows to be produced, not only to determine the facts, but also, and especially, in order to decide on the measures to be adopted to ensure optimum protection of the rights and interests of the minor. The situation is similar in respect of hearings organized by the protection boards, which take the steps that they themselves consider necessary and suitable in order to determine the facts of the situation and reach a decision.

189. Court decisions applying, modifying or terminating guardianship arrangements can always be appealed against. Appeals are heard by courts of second instance and may be lodged by the government procurator and the parents or duly authorized legal representative of the minor. They may be assisted by a lawyer, as has already been noted. As regards the protection boards, their examination of a case may at any time be opposed by those vested with parental authority. When this happens, the board either does not proceed with the case or ceases to do so and reports the situation to the court, which becomes competent to examine it.

190. The OTM does not make provision for children who do not understand Portuguese to be assisted by an interpreter. However, in situations not expressly provided for, it allows the application of such provisions of the Code of Penal Procedure as do not conflict with the special role of the guardianship authority. This is certainly the case in respect of the rule mentioned below under which every accused person has the right to such assistance.

191. In order to ensure that the child's right to privacy is respected, guardianship legislation declares files to be secret, with access restricted to a limited number of persons and subject to specific conditions. Breach of the secrecy of files is a crime of disobedience, punishable by the Penal Code. Furthermore, court hearings are held in camera and are open only to persons expressly authorized to attend by the court.

192. Strictly speaking, there is no age-limit below which children are presumed not to have legal capacity to infringe criminal law. There exists, however, as has been said, an age (16 years) below which children are considered not to be criminally liable for any crimes they may commit. That being said, when a child commits an offence, "guardianship measures" may be set in motion, regardless of the child's age.

193. In the case of children under the age of 12, these measures may be taken without instituting legal proceedings, by way of the protection boards. These boards were introduced into the country, in their earliest form, by the OTM

reform of 1978. This enactment assigned to bodies set up in observation and social welfare centres (see below), composed of the centre's director and psychologist, a representative of the Ministry of Education and another of the Ministry of Social Affairs (now the Ministry of Employment and Social Security), and also by a "curador de menores" (see para. 187), responsibility for applying the measures laid down in the guardianship legislation for children under the age of 12 who show signs of social maladjustment or commit offences.

194. These provisions were reformulated by Decree-Law No. 189/91 of 17 May 1991 which, while maintaining the boards set up in 1978, provides alongside them for boards of a new kind, to be established in all the judicial districts of the country (at the present time there are nearly 30 such boards in operation). These "new" boards have a wider membership which includes an official of the government procurator's office, a representative of the municipality, a psychologist and representatives of public services responsible for education, social security, health and leisure activities for young people, private welfare organizations, parents' associations and the police. The boards may also have other persons among their members, as required by local circumstances.

195. The boards are required to examine cases of children under the age of 12 found to be in situations considered in the OTM to be a cause for juvenile court proceedings. However, in the case of minors subjected to ill-treatment or in danger, their competence extends up to the age of 18. They can apply the same measures as the courts (mentioned in the following paragraph), except for ordering the placement of minors in youth care centres. When they consider that such is the appropriate decision to be taken, they refer the file to the court, which assumes jurisdiction. The examination of cases by the boards, of whatever type, is subject to the express consent of those invested with parental authority, in accordance with the constitutional rule, already mentioned several times, under which parents have "the right and the duty to bring up their children", and which does not envisage the separation of parents from children except "when parents do not fulfil their basic duties towards the children, and then only by virtue of a court decision". In the event of consent not being given, the only possible course remaining is action at law.

196. Legal provision is made for a variety of guardianship measures, among which the court or board freely chooses the one most appropriate to each case. In this set of measures, placement in youth care centres (see para. 204 below) is mentioned only as a last resort, thus revealing the legislator's preference for the taking of other measures, especially of a non-institutional kind. Besides admonishment and entrustment to parents, guardians or persons with custody of the child, these measures include non-custodial supervision ("educational accompaniment"), placement in an apprenticeship or work scheme with a public or private body and placement in an appropriate family or in a public or private educational institution. When it decides upon these measures, the court may lay down the obligations particularly binding upon the child in the matter of education, occupational training and free-time activity, and it specifies the duties of the persons to whom the minor is

entrusted. Moreover, in the specific case of non-custodial supervision, minors are required to allow themselves to be guided, assisted and followed by specialized teams. The court may also suspend execution of most of the guardianship measures or the court proceedings. In such cases also, the minors are supervised by specialized teams during the period of suspension. In the legislation relating to protection boards, it is clearly stated that they should give precedence in their action to measures that can be carried out within the minor's family or community.

197. The practice of the courts has not sufficiently translated into reality the intention of the legislator to give precedence to non-custodial measures of support and assistance to minors who have committed acts defined as crimes by criminal law. Until a few years ago, such minors were in the majority of cases simply entrusted to their parents or to the persons appointed as their guardians or placed in youth care centres, with recourse being had very rarely to any of the remaining measures. During the period 1982-1986, for example, the courts decided to entrust them to parents/guardians in 89 per cent of cases and to place them in youth care centres in 6.3 per cent; the remaining measures were taken only in 4.4 per cent of the total number of cases. From 1987-88, and especially 1989, the situation began to change. More frequent use began to be made of non-custodial measures of guidance and supervision, and in particular the court proceedings or guardianship measures were more frequently suspended (decided in 1991 in 26.7 per cent of cases). However, it has to be said that this resulted in fewer cases of child offenders being entrusted unconditionally to parents or guardians, the rate for which declined accordingly (68 per cent in 1991), rather than in fewer cases of such children being placed in youth care centres, the rate for which decreased only a little (5.1 per cent in 1991).

198. Young people over the age of 16 are tried by courts of general jurisdiction and the provisions of the Code of Penal Procedure apply to them. The Code of Penal Procedure is a recent legislative enactment which came into force on 1 January 1988. One of its main features is that it strictly ensures that the rights of the accused are defended. Moreover, the Constitution states (art. 32, para. 1) that "criminal proceedings shall provide all necessary safeguards for the defence" and expressly enshrines the most important rights of the accused, in particular those relating to article 40, paragraph 2, of the Convention, namely:

(a) The right to be convicted under criminal law only for an act or omission punishable at the time of its being committed (art. 29, para. 1);

(b) Presumption of innocence until the time that the conviction has acquired the force of res judicata (art. 32, para. 2);

(c) The right to choose and be assisted by counsel at all stages of the proceedings (art. 32, para. 3);

(d) The right to be tried within the shortest possible time compatible with safeguards for the defence (art. 32, para. 2) by an independent and impartial tribunal (art. 208);

(e) The right to proceedings that are accusatory in structure, the hearing and the preliminary investigation specified by law being governed by the principle that both parties are to be heard (art. 32, para. 5);

(f) The prohibition of any evidence obtained by torture, force, or violation of the physical or moral integrity of the individual (art. 32, para. 6).

199. The Code of Penal Procedure regulates the exercise of these rights and strengthens the position of the accused throughout the proceedings, granting him yet further rights, in particular the right to be heard whenever a judicial measure affecting him is to be taken, not to reply to questions on the acts with which he is charged and on the content of statements made by him regarding those acts, to produce such evidence and to request such measures as he considers necessary, and to appeal against decisions that are unfavourable to him (art. 61, para. 1). The Code also provides for the free assistance of an appropriate interpreter whenever the accused does not know or have sufficient command of Portuguese (art. 92, para. 2).

200. Furthermore, and despite the fact that hearings are necessarily held in public, except in cases where the presiding judge decides that they shall not be or shall be so only in part, measures are laid down to protect the privacy of the accused. For example, in cases where the court has requested that the situation of the accused should be investigated, as is usually required when his age, at the time of the offence, is under 21 years, the report of the investigation will be read out during the hearing only at the request of the accused (art. 370, para. 4). If, once culpable conduct has been proved, the court considers it necessary for additional evidence to be produced in order to determine the nature and extent of the penalty (hearing of criminal experts, social rehabilitation officers and any other person who can usefully testify to the personality and living conditions of the accused), such evidence may only be produced in public session if the presiding judge considers that the dignity of the accused will not suffer as a result (art. 371).

201. Judicial branch statistics do not give separate figures for the number of convicted persons over 18 years of age but less than 20 (or 21, from 1986 to 1990). The absolute number of these convicted persons and their percentage of the total number of convicted persons decreased between 1986 and 1989 from 1,512 (8.4 per cent of the total) to 1,479 (6.8 per cent). From 1989 on, the figures began to climb, with the figures for 1991 (2,912, representing 12.7 per cent of convicted persons) considered to be disturbing.

2. Treatment of children deprived of their liberty, including children who are detained, imprisoned or placed in rehabilitation institutions (art. 37 (b), (c) and (d))

202. The right to freedom and security is guaranteed by article 27 of the Constitution, under which no one shall be deprived of his freedom except as a result of a court judgment convicting him of an offence punishable by law. Exceptions to this principle are pre-trial detention, other situations of a more temporary nature and "the placing of a minor under protective assistance or educational measures in an appropriate establishment, by order of the

competent court". Under the OTM, a minor (under 16 years of age) who is charged with a crime cannot be placed by the police in an "appropriate area" of police premises or a youth care centre unless it is not possible to bring him immediately before the court, which must be done forthwith when the possibility does arise. During the examination proceedings, the judge may decide to place the child in an institution only in the most serious cases, i.e. in cases where it is presumed that placement in a youth care centre will be ordered as part of the final decision. This having been said, this measure cannot exceed 20 days in length, except in specific cases in order to place the child under observation. In such cases, placement - which is conducted in a "social action and observation centre" - may be extended up to three months (see arts. 49, 40, 56 and 84).

203. As stated earlier, a final decision involving placement in "youth care centres" should only be a solution of last resort. In addition, such measures are monitored by the judge for as long as they continue since it is felt that the court should end them whenever appropriate for the minor's social reintegration. Thus, whenever the judge considers it appropriate, he may enter into contact with the minor, even in the establishment where he is placed. As stated above (para. 125) the management of the establishment must inform the court annually on the development of the minor's personality and his behaviour, and his situation should be reviewed by the court every two years.

204. Minors under 16 years of age who are charged with a crime - when they are not placed in the private or public institutions generally available to children deprived of a normal family environment - can only be placed in so-called youth care centres; it is never permitted to incarcerate them. In any event, placement must end when the minor reaches majority age. Youth care centres report to the Ministry of Justice, through the Office of Protective Services for Minors. They include the social action and observation centres, which are basically support structures for the court and the minors' protection boards. There are three centres of this type, which were providing services to 318 children (194 boys and 124 girls) in November 1993. The youth care centres also comprise institutions for the implementation of placement measures, i e. homes, medical and psychological institutes and rehabilitation establishments. "Homes" are small, family-type communities located in urban centres, for children who attend school, receive vocational training and lead a social life as appropriate for their age outside the institution. At the end of 1993, approximately 100 children were living in such homes. Like medical and psychological institutes - used to observe and place mentally deficient or abnormal minors - there is only one such institution, a medium-sized establishment in Lisbon which can house 45 minors. The rehabilitation establishments are the most common institutions. They are to be found throughout the country and generally provide care for 40 to 60 minors. According to information provided by the minors' protection services, 524 children (383 boys and 141 girls), aged 9 to 12 years (5.5 per cent), 12 to 14 years (22.1 per cent), 15 years (19.8 per cent) and 16 to 18 years (52.5 per cent) were placed in such establishments as at November 1993.

205. Under the OTM, the rehabilitation institution is aimed exclusively at promoting the social rehabilitation of minors through educational means.

To that end, they must be given schooling, cultural education and vocational training, in accordance with their aptitudes and leanings. The use of punishment that is violent, degrading or might affect children's health or emotional balance is expressly forbidden. It is felt that the minors' families should be involved in their educational process, and establishments must inform the parents regularly on their children's situation and progress. In addition, with very few exceptions, children spend their vacations, and frequently their weekends, with their families. The rehabilitation institutions of today are quite open. They have no bars on the windows, high walls or police surveillance for avoiding break-outs. Moreover, although the children's academic, vocational and cultural schooling takes place inside in most cases, they are given frequent opportunities for outings, either to attend classes, cultural, training or athletic activities or simply for recreation.

206. As for young people over 16 years of age, there are no special provisions governing the conditions under which they can be arrested by the police or placed in pre-trial detention; these young people are covered by the rules of the Code of Penal Procedure. However, the Code is quite restrictive on this question, in keeping with the provisions of the Constitution. The police can only arrest someone taken in flagrante delicto and must bring the detainee before the judge within a maximum of 48 hours (arts. 141, 254 and 255). The judge, for his part, can order pre-trial detention only in cases where there is strong evidence that the accused committed a deliberate offence punishable by a prison term of a maximum length of over three years (art. 202, para. 1 (a), as stated in art. 27, para. 3 (a), of the Constitution) and only if the judge considers the less serious "coercive measures" set forth in the legislation (requirement to report periodically, bail, etc.) to be inadequate or insufficient. Pre-trial detention is no longer obligatory, the Code of Penal Procedure having ended the previous system under which pre-trial detention was mandatory for crimes of a certain nature or seriousness. In May 1993, 20 16-year-olds and 75 17-year-olds were being held in pre-trial detention. The former were charged with theft and injury. The latter were charged with homicide and drug-trafficking, in addition to theft and injury.

207. The Act on enforcement of custodial measures (Decree-Law No. 265/79) of 1 August 1979 as amended by Decree-Laws Nos. 49/80 of 22 March 1980 and 414/85 of 18 October 1985) lays down special rules for pre-trial detention that are more permissive than those applicable to convicted prisoners with respect to visits, clothing, food or work. Pre-trial detention is conducted in the regional establishments also used for prisoners serving sentences of up to six months. However, untried prisoners are separated from convicted prisoners as far as possible. Specifically, the law recommends that young detainees between 16 and 25 years of age should be held "in separate sections or establishments" where they should be under a regime "basically aimed at rehabilitation" (art. 216). Building establishments specifically for young detainees, however, has never really been considered; even separating them from adults in the common establishments is not generally possible.

208. However, young convicted prisoners are separated from adult convicted prisoners to a certain extent. The Act on enforcement of custodial measures provides for special prison establishments for young people between 16 and 21 years of age. This is true of the prison in Leiria, in the central part of

the country (which replaced the reform school opened during the 1940s), which receives convicted prisoners under 21 years of age whose sentences are not too heavy. The prison in Linhó, on the outskirts of Lisbon is mainly intended for young prisoners. A few years ago, the Minister of Justice announced a project to establish a "young detainees' community" at Viseu, in a building which is currently a girls' rehabilitation establishment. The "young detainees' community" would be intended for young males from 16 to 20 years of age who are first offenders and whose sentences are less than two years in length. However, this project has not yet been realized. In May 1993, the prisons contained 25 young people under 18 years of age (2 16-year-olds and 23 17-year-olds), serving sentences for theft, arson and homicide.

209. Under Portuguese prison legislation, the goal of custodial measures for any detainee is his eventual social reintegration. Detainees' personalities must be respected as well as their legal rights and interests not affected by their conviction. They are entitled to access to paid work, social security, culture and the means of developing their personality. The right of all detainees to receive visits is recognized, and it is even felt that contact with people from outside, particularly relatives, should be encouraged. They are also granted the right to exchange correspondence and make telephone calls.

210. As we have said, the OTM does not provide for minors to be aided by counsel or another type of legal assistant except in appeals cases. In cases where a child is deprived of liberty other than in the conditions permitted by law the "curador" (representative of the government procurator's office before the minors' protection service), who is legally responsible for defending minors' rights and interests, should be asked to intervene. According to the Code of Penal Procedure, detaining a suspect implies that he will be charged (art. 58, para. 1 (a)). The accused has the right to choose a defence attorney or ask the court to assign him one, and to be assisted in all procedural acts in which he participates; he may even communicate with his lawyer in private while detained. This right can never be denied, even in particularly serious cases (such as terrorism or violent or highly organized crimes). When the accused is under 21 years of age, he must be assisted by defence counsel in all procedural acts (arts. 61, para. 1 (d) and (e), and 64, para. 1 (c)).

211. Police arrest is subject to control by the examining magistrate, who must interrogate the accused in the presence of his lawyer within a maximum period of 48 hours. If pre-trial detention is ordered by the judge, the accused may appeal against the decision; he may also ask for revocation or an alternative measure while in detention, if he feels that he has been detained other than in the conditions established by law or that the circumstances justifying the detention have ceased to exist. An appeal against a judicial decision ordering detention or denying revocation or an alternative measure must be judged within a maximum period of 30 days. The Act on enforcement of custodial measures lays down a special system for defence lawyers to visit detainees. Such visits are possible even outside normal visiting days and hours and take place in a private area, out of earshot of the guard. It is not permitted to inspect the contents of texts or other documents that the lawyer is carrying. As a guarantee against any unlawful detention or deprivation of liberty, the Code of Penal Procedure also provides for

habeas corpus, which is in fact a constitutional guarantee. Habeas corpus may be requested by a detainee or any other citizen in exercise of his political rights, and a decision must be handed down by the court within a period of eight days.

3. Sentencing of juveniles, in particular prohibition of capital punishment and life imprisonment (art. 37 (a))

212. As stated earlier, criminal penalties can never be applied to minors under 16 years of age. This rule is absolute - i.e. there can be no exceptions based on the degree of maturity or the number or seriousness of the crimes committed; it was introduced into the country in 1911, though the Children's Protection Act, and has never been amended in any way. From the age of 16 on, the Penal Code is applicable, although with certain limitations, laid down in Decree-Law No. 401/82 of 23 September 1982. In cases where the youth is under 18 years of age and the prison term under two years, the judge may, in view of the personality of the youth involved and the circumstances of the act, apply the measures laid down in the OTM. In cases where the person is placed in a youth care centre, he may, on his own request, be authorized to stay there after he has reached 18 years of age, when doing so would bring him definite advantages with respect to his training and education.

213. Under the above-mentioned legislation (which also provides special punishment, of a more educational nature, for young people from 18 to 21 years of age), judges must specifically reduce prison terms applicable to minors under 21 years of age when there is serious reason to believe that reduction of the sentence would be beneficial to the minor's social reintegration. Reduction of sentences applicable to persons under 21 years of age is a traditional principle of Portuguese criminal law and was already contained in the Penal Codes in the last century.

214. It should also be mentioned that young people from 16 to 18 years of age who commit crimes can continue to be covered by the OTM regime when they have been the subject of a protective measure at the time the act was committed and their personality and the lack of seriousness of the violation so recommend. Actual use by the courts of the possibilities offered to them by Decree-Law No. 401/82 varies. While prison terms are very rarely replaced by protective measures - perhaps because the youth care centres are not prepared to receive this group of young people - reduction of sentences is nearly the rule and is only denied in particularly serious cases.

215. Beyond the specific provisions contained in Decree-Law No. 401/82, young people over 16 years of age are subject to the ordinary criminal legislation. However, the Portuguese Penal Code is modern (it entered into force in 1983), and deeply humanistic. It sets the maximum length of a custodial sentence at 20 years (25 years for certain crimes against humanity or for particularly serious terrorist crimes, or for concurrence of crimes) and it also considers such a sentence to be a solution of last resort and recommends that it should be replaced by a punishment not involving deprivation of liberty (warning, work in the general interest, fine, suspended sentence, probation) whenever this is sufficient to encourage the offender's social reintegration and serves the purpose of repressing and preventing crime.

216. Young people are given alternatives to prison terms, especially warnings, work in the general interest and probation, more frequently than adults. The prison terms and fines against them also very often take the form of suspended sentences. For this reason, perhaps, the absolute number of inmates (untried and convicted) from 16 to 18 years of age (inclusive), and especially their percentage of the total, has decreased. In 1983 there were 555 inmates in that age group, representing 8.3 per cent of the total; in 1992, 324, representing 3.4 per cent (as at 31 December of each year).

217. As mentioned above (para. 95), the absolute prohibition of the death penalty, life sentences or sentences of unlimited or indefinite duration, torture and cruel or degrading punishment has become a constitutional principle. Portugal even has a very strong tradition in this area. The death penalty was abolished for political crimes in 1852, for ordinary crimes in 1867 (under a bill approved by the Chamber of Deputies by 90 votes to 2) and for military crimes in 1911 (except in cases of war and for acts committed in the theatre of war). The last execution for an ordinary crime occurred in 1846. Life sentences - already limited to crimes carrying the death penalty in 1867 - were abolished in 1884. Cruel or infamous punishments (torture, confiscation of goods, infamy, beatings, etc.) were prohibited in 1822, with the triumph of constitutionalism.

C. Children in situations of exploitation

1. Economic exploitation, including child labour (art. 32)

218. The Constitution requires the State to provide "special protection" for minors at work (art. 59, para. 2 (c)). Another provision was added in the constitutional revision of 1989 explicitly prohibiting work by school-age minor children (art. 74, para. 4). Child labour is currently regulated by Decree-Law No. 396/91 of 16 October 1991, which amended Decree-Law No. 49/408 of 24 November 1969 (regulations concerning the individual labour contract) on this point. This legislation was enacted pursuant to Legislative Authorization Act No. 42/91 of 27 July 1991, which enabled the Government to legislate in this area, on the basis of the following principles:

(a) To guarantee the balanced physical, mental and emotional development of minors and protect their safety and health;

(b) To guarantee their schooling, vocational training and protection in society.

In accordance with those provisions, Decree-Law No. 396/91 requires management to provide minors with "working conditions appropriate for their age, taking special care to avoid any risks for their safety, health or education or any damage to their physical, mental and emotional development". In order better to guarantee this principle, medical examinations of children immediately after admission and at the end of every annual period are mandatory. Employers are also required to provide vocational training for the minors working for them. Minors also receive "special rights" in the form of advantages in the performance of their jobs (holidays, part-time work), that enable them to attend vocational training courses.

219. Decree-Law No. 396/91 raises the age of admission to employment, which had previously been 14 years. This change is aimed at bringing Portuguese legislation into line with the legislation in most of the countries of the European Community and create the conditions needed for ratification of International Labour Organisation Convention No. 138 of 1973. The minimum age for admission to employment is 16 years for young people who have not completed their nine years' compulsory schooling (see paras. 150 and 151). Children having completed their nine-year school requirement can work from age 15 onwards. Fourteen-year-olds are exceptionally permitted to "perform light work", provided they have completed their compulsory schooling. No labour contract concluded with children under 16 years of age is valid without written permission from their legal representatives.

220. Minors are prohibited from working overtime. Work which, because of its nature or the conditions under which it is performed, is harmful to their physical, mental or emotional development is also prohibited, or at least subject to certain conditions. Such work is specified in Order No. 715/93 of 3 August 1993. Order No. 714/93 of 3 August 1993 lays down the conditions under which work may be considered as "light", for the purposes of being performed by 14-year-olds. In particular, such work must involve "simple and defined" tasks, which require only "elementary knowledge", and must not involve any particular physical or mental effort; it must not exceed seven hours per day or 35 hours per week and must be performed between 7 a.m. and 8 p.m.; it must not continue for more than four hours without a break of not less than one hour; and it must include a weekly rest period of at least two days.

221. Work by children under 16 years of age is monitored by the General Labour Inspectorate, which must be informed of every admission to employment of a worker below that age. Violations of the rules on children's age of access to work or the conditions under which such work is performed are subject to fines in accordance with the seriousness of the violation. Firms which employ children under the legal age limit are liable to an additional penalty: a one-year prohibition against concluding contracts with the State, local governments or public or private institutions receiving social security subsidies and ban on bidding for community funds. The list of firms on which this penalty has been imposed must be published once a year in the official journal.

222. Attention has focused on the issue of child labour in recent years. There have recently been numerous cases of clandestine child labour, especially in the northern part of the country, in the clothing, footwear, housing, furniture and textile industries. The media, trade unions, Catholic Church, political parties, minors' protection services and other bodies have frequently drawn attention to this problem and called for more Government action, especially from the General Labour Inspectorate. Decree-Law No. 396/91 - as Decree-Law No. 286/88 of 12 August 1988 before it, which introduced a first increase of the penalties applicable in cases of illegal employment of minors - should be seen in the context of a strong trend in public opinion against child labour. However, the problem is far from settled (the Ministry of Labour, in cooperation with various institutions, recently established a working group in the northern part of the country to monitor it), and its actual extent is not known with any precision.

223. This is not an easy problem to solve, since it is made up of many different factors. One is the difficulties being experienced by businesses, which induces them to use child labour and pay less. Another is the complicity of the families - who need an extra wage and often put more value on work than school - and of the young people themselves. For the latter, having a job and earning a wage not only enhances their status (which often makes up for frustrating school experiences previously), but also gives them access to the consumer goods that otherwise would be beyond their reach. As a result, it is not always easy to monitor the sectors in question, since the economic fabric is made up of numerous small businesses, which often use cottage workers. Official campaigns have been launched to raise the value of school in young people's eyes and discourage them from entering the labour world prematurely. One such example was the "Time to grow" campaign, sponsored by the Ministry of Employment and Social Security, which included a vast poster campaign featuring an adolescent saying, "At my age, my job is school".

2. Drug abuse (art. 33)

224. Drug abuse by minors under 16 is one of the situations in which intervention is likely by the guardianship court or protection boards, which can apply all the measures within their competence in these situations. There are no special institutions for the treatment of children who are drug addicts within the framework of the services for the protection of minors (the specialized reception centres envisaged for that purpose by the OTM were never established). Drug consumption by adolescents over 16 is now a criminal offence (Decree-Law No. 15/93 of 22 January 1993), although the penalties for consumption provided for by the law are relatively light: imprisonment of up to three months or a fine of up to 30 days or, in more serious cases (possession of amounts exceeding the amount usually consumed in three days), maximum imprisonment of one year or a maximum fine of 120 days. If, in the first case, the offender is guilty of casual use, the court may waive the penalty. Whether for consumption or for crimes directly linked to it, the penalties applied may be suspended, under the general law, provided that the drug addict undergoes treatment.

225. Drug production and trafficking are severely punished, and the prison term imposed may be the maximum established by the criminal law. All the penalties established shall be increased by a quarter if the drug is intended for or entrusted to minors, if the latter are used in committing crimes or if the crimes are committed in educational institutions or in places, or annexes thereto, where young people pursue educational, sporting or social activities (art. 24 (a), (h) and (i)). The penalties established for the crime of incitement to use drugs (imprisonment of up to three years or a fine) shall also be increased by one third if the acts committed are to the detriment of the minor (art. 29, paras. 1 and 3).

226. There are a number of bodies involved in the prevention of drug abuse and in the treatment and social reintegration of drug addicts. "Project Life" is the lead agency of Government action in this field. It was launched in 1987 by Council of Ministers resolution No. 23/87 of 31 March 1987, and amended in 1990 by Council of Ministers resolution No. 17/90 of 21 April 1990. This is a coordinating agency, without any executive power, that seeks to formulate

and ensure the execution of a coherent multiple intervention plan, including primary, secondary and tertiary prevention, data collection, studies and measures to combat drug trafficking. The basic structures of the project are the Inter-Ministerial Commission, which is chaired by the Prime Minister and consists of the Ministers of Internal Administration, Justice, Education, Health, Employment and Social Security as well as the Deputy Minister of Parliamentary Affairs; the National Council, comprising representatives of sectors of society directly or indirectly involved in the problem of drugs; and the National Coordinator, now called the High Commissioner. The local structures in each department come under the authority of the respective prefect.

227. Actual measures relating to the prevention and treatment of drug abuse are undertaken by public and private entities. The public measures are primarily the responsibility of the Drug Addiction Prevention and Treatment Office (SPTT) of the Ministry of Health. The former centres for drug prevention studies in the country come under this department and are situated in Lisbon, Porto and Coimbra. They were created in 1976 and have regional authority for primary, secondary and tertiary prevention. In the first area, they have been pursuing drug abuse prevention measures in the schools since 1978, in collaboration with the respective teachers. The work of treatment is done by all the centres on an out-patient basis; two of them - those in Lisbon and Coimbra - still have therapeutic facilities for live-in patients. A few years ago, the Ministry of Health began to execute a plan to set up less cumbersome and more decentralized reception centres throughout the country. These are called Help Centres for Drug Addicts (CAT). Over 10 have been set up so far and they are run by the SPTT. Only a few years ago, the Taipas hospital was opened in Lisbon specially and exclusively for the treatment of drug addicts. The response capability in this area has thus been enhanced considerably.

228. There are also several private bodies involved in the area of drug abuse, ranging from profit-making clinics to social solidarity associations. There are associations which are very different in terms of their area of work, in other words whether they deal only with drug abuse or whether they cover other social areas as well, their orientation (some have a religious orientation although most are secular), their work methods (some work through technical and multidisciplinary teams, others depend on volunteers, still others on former drug addicts) and their goals (whether they focus on prevention alone or provide treatment as well, through out-patient care or therapeutic facilities for live-in treatment).

229. Among the measures adopted for the protection of children against illegal drug consumption, mention should also be made of a number of non-specific projects to improve the quality of life of young people, to make them less likely to yield to the lure of drugs. There is, for example, the "Long live school" project of the Ministry of Education, which aims, on the one hand, to create free-time activities in school and, on the other, to improve the quality of the relationship between teachers and pupils and even between pupils. There are also projects for young people launched by several municipalities, the project called "With you, you will go far", a particularly large and dynamic one, which forms part of the drug abuse prevention plan of the municipality of Lisbon, being an example.

230. There are no special institutions for the treatment of children who are drug addicts. They are taken care of by the structures which cater to all citizens. No serious thought has ever been given to setting up services specifically for children, perhaps because the pressure of the circumstances has not been great enough to necessitate it. The fact is that drug abuse, and especially the consumption of heroin, which is the drug most widely used, affects young people and adults in particular, but is rare among children. For example, in a study published by the Unit for the Planning and Coordination of Drug Control in 1993 on the consumption of drugs and other substances detrimental to health by schoolchildren in the Greater Lisbon area, entitled "Studies carried out in Greater Lisbon schools in the 1991/1992 academic year - preliminary data", it was concluded that the incidence of drug consumption in the 30 days prior to the study, by pupils in the seventh to eleventh grades, who were probably between 12 and 17 years of age, were 0.38 per cent for pupils in the seventh, eighth and ninth grades and 0.77 per cent for those in the tenth and eleventh grades. The rates for hashish consumption were 2.05 per cent and 7 per cent respectively. A comparison can be made for pupils in the seventh to ninth grades, who are approximately 12 to 15 years of age, using the data obtained in 1988: it appears to show a downward trend in drug consumption by the children in this age group because, in 1988, the incidence of heroin and hashish consumption had been 0.92 per cent and 4.81 per cent, respectively.

231. A problem peculiar to juvenile drug addiction is glue-sniffing. That problem, as far as the public is aware, occurs chiefly among the "street children" of certain parts of Lisbon. Many of them have run away from home or from rehabilitation institutions and live in abandoned and dilapidated buildings in old districts of Lisbon, surviving by petty theft, prostitution, pornography or drug trafficking. The "glue-sniffing street children" are a recent problem in Portugal. The mass media have contributed greatly to making the public aware of these situations, by broadcasting reports on these children that have moved and disturbed public opinion. However, it is still difficult for public and private child support services to work with these cases, which present new and challenging problems. The Child Support Institute is perhaps the entity which has worked most closely with these children and has taken innovative steps to help them.

3. Sexual exploitation and sexual abuse (art. 34)

232. Sexual relations or the perpetration of crimes against sexual morality with minors under 16 years of age is unlawful and carries a criminal penalty. Sexual intercourse with a girl under 14 years of age always constitutes a crime of rape, even when not accompanied by violence and threats, and is punishable by imprisonment of two to eight years or two to five years depending on whether she is under 12 years of age, or between 12 and 14 years of age (Penal Code, arts. 201, para. 2 and 202, para. 1). Sexual intercourse with a minor between 14 and 16 years of age is punishable as seduction, with maximum imprisonment of two years, if the perpetrator has obtained this "by taking advantage of the minor's inexperience or by making a solemn promise of marriage" (art. 204). Furthermore, any act committed with a minor under 16 years of age, even without violence or threats, which does serious harm to the general sentiments of sexual morality, is punishable as indecent assault,

with maximum imprisonment of three years (arts. 205 and 206). The same penalty is laid down for homosexual acts committed with minors under 16 years of age (art. 207). The minimum and maximum penalties referred to shall be increased by one third if the victim is a descendant of the perpetrator or of his spouse or is dependent on him (art. 208).

233. The sexual abuse of children is a problem which is now receiving the greatest attention from and is a source of concern to the departments and entities that work with minors. Nowadays, because much more attention is paid to the problem and much more is known about it, it has become easier for the institutions that are in contact with the child, especially the schools and health services, to detect these situations when they occur. Thus, for example in a recent study, a paediatrician at Santa Maria Hospital, which is a large Lisbon hospital, concluded that 14 per cent of the children admitted there as a result of ill-treatment had been sexually abused. Despite that, little is known about the real situation, and most of the crimes will probably remain undetected, especially if the perpetrators are close relatives of the children. In Portugal, there is a high fertility rate among adolescent girls. In 1991, 3,161 children were born to mothers under 18 years of age. The mothers included 454 under 16 years of age and 26 under 14 years of age. The public is extremely critical of those cases that come to its attention, especially if they involve younger children, and demands severe punishment. In a recent case, some people created a commotion outside the courthouse because they felt that the penalties imposed were too light. One of the controversial points of the current amendment to the Penal Code is precisely the punishment of sexual crimes against children and adolescents.

234. In Portugal, prostitution as such has been decriminalized by the Penal Code now in force. Penal sanctions are imposed, however, for some of the acts associated with prostitution - for example, promoting, encouraging or facilitating prostitution by persons in particularly vulnerable positions, such as minors under 18 years of age. This act constitutes the crime of exploitation of the prostitution of others and is punishable by a prison term of up to two years and a fine. The punishment is imprisonment of two to eight years and a heavier fine if the victim is the descendant of the perpetrator or is dependent on him (art. 215). Trafficking in persons also, for the purpose of engaging in prostitution or in acts which offend a sense of decency or sexual morality, in other countries, is a crime that is punishable by a prison term of two to eight years and a fine. The penalty shall be increased by one third if the perpetrator acts with gainful intent or professionally, uses violence or makes a serious threat. It shall be increased by a half again if the victim is his descendant or dependant (art. 217).

235. Not much information is available on the number of minors in prostitution, but it is thought that although some are involved in it, their numbers are not very large. The cases discovered are usually reported by the police, or by the entities which find out about them, to the juvenile courts, which can apply the measures that fall within their competence. The adolescents are generally placed either in a residential institution for their care and rehabilitation or in one of the few special institutions run by the Catholic Church especially dedicated to dealing with this type of situation.

In 1991 and 1992, 13 and 25 minors respectively, under 16 years of age were placed in the first type of institution for "prostitution and debauchery". These numbers represent 8 per cent and 16 per cent of all the minors placed there during those two years. Taking action in these cases is not an easy task, because the minors often run away from these institutions. Young people in these situations usually come from the "street children" referred to earlier.

236. There is no penal legislation on the exploitation of children in the production of pornographic material. However, the employment of minors under 16 years of age for this purpose is included in the crime of indecent assault (see para. 232 above). The draft amendment to the Penal Code expressly includes the use of minors under 14 years of age for pornographic photographs, films or recordings, in the crime of sexual abuse of children and punishes this act with a prison term of up to three years or of six months to five years, if the acts were committed with gainful intent. In addition, it considers that this action will constitute a crime of "sexual abuse of an adolescent", punishable by a prison term of up to one year (three years if committed with gainful intent), if it involves a minor between 14 and 16 years of age, who was entrusted to the perpetrator for education and assistance, or a minor between 16 and 18 years of age, under the same conditions, if the crime was committed with the abuse of responsibility or position. Very little is known about the use of minors in the production of pornographic material, although a few cases have already come to public attention and led to criminal proceedings. These cases mostly involved "street children" between 12 and 17 years of age, some of whom had run away from home or the rehabilitation institutions, and implicated foreign citizens who subsequently sold the material on the international market. As stated before, the Child Support Institute has been working in the street with these children, but they are so accustomed to a life of great freedom that they find it difficult to adjust to life in the institutions.

4. Other forms of exploitation (art. 36)

237. One issue that had attracted considerable attention in recent years is the protection of children against exploitation through begging. When exploitation is committed by adults against minors under 16 years of age, it is punishable as a crime carrying a prison term of six months to two years. It is true that, although child begging was common up to very recently, today it is relatively limited. Thus, in a study on ill-treatment, neglect and child beggars, carried out in 1985 by the Centre for Judicial Studies, only 5 per cent of the 500 sample (freguesias) (the smallest administrative division in Portugal) recognized that children begged in their area. Nevertheless, situations sometimes arise which require the intervention of the entities responsible for child protection. That was the case, for example, of the inter-agency action, taken a few years ago in Lisbon, to put an end to the situation where children, usually young ones, were made to accompany their parents or other adults to beg in certain places in the city centre and were often benumbed with alcohol or other sedatives. Begging, today, seems to affect certain groups of children in particular, such as the Gypsy children who usually go begging together with their mothers, brothers and sisters, or is confined to certain areas of the country.

5. Sale, trafficking and abduction (art. 35)

238. Reference was made in paragraph 234 to the penal sanctions imposed on trafficking in persons for purposes of sexual exploitation. In addition, the purchase, sale or transfer of a human being, regardless of age, with intent to reduce him to slavery is punishable by a prison term of 8 to 15 years, as a crime against freedom (art. 161). Giving money to a family or an intermediary in order to obtain a child for adoption purposes is not punishable as a crime. Although these situations are infrequent, the recent legislation on adoption (Decree-Law No. 185/93 of 22 May 1993) seeks to prevent their occurrence, establishing that a person may only assume responsibility for a child, with a view to his future adoption, pursuant to a court decision of "confidence" or a decision of the social security agency. This law is even more stringent and always requires a court decision of "confidence" when children residing in Portugal are to be placed abroad, and it seeks through this requirement, to put an end to the doubt and uncertainty that have existed so far about the conditions under which a child may leave the country for adoption abroad. The abduction of a human being, of any age whatever, constitutes a crime against the freedom of the individual. Nevertheless, the abduction of a minor under 16 years of age "with intent to exploit him or obtain a reward for his return, or with lustful intent or intent to use him in prostitution" constitutes a distinct crime (art. 163) which carries a more severe penalty (6 to 10 years' imprisonment or 8 to 15 years' imprisonment if it is established that there are certain aggravating circumstances, or if the child dies as a result of the crime).

D. Children belonging to a minority or an indigenous group (art. 30)

239. Although the Portuguese population is a mixture of races and peoples, it has a certain homogeneity. Problems involving indigenous groups do not arise and, until recently, the only ethnic community of any significance, with specific characteristics, was the Gypsy community, consisting of over 20,000 persons who have long been established in the country. However, the situation started to change a few years ago, when migratory movements began, especially of citizens from African countries whose official language is Portuguese. While the foreign population is still not very large (2-2.5 per cent of the total population), minority groups are now in evidence, especially Africans among whom the Cape Verdeans predominate, Brazilians, Indians and Pakistanis, and, more recently, Chinese. It is difficult to know the exact size of these communities, because a large proportion of the immigration was clandestine. According to the 1991 demographic statistics, as at that date there were 47,998 Africans (of whom 45,795 were from countries where the official language is Portuguese, including 29,743 from Cape Verde), 12,678 Brazilians and 4,458 Asians residing legally in Portugal. In those communities there were, respectively, 988, 1,153 and 97 children under 16 years of age. Estimates of the number of clandestine immigrants vary very widely. Only a few months ago, the official figures given were 70,000 to 80,000, whereas other entities spoke of much higher numbers. The Catholic Association for Migration, for example, estimated that there were between 100,000 and 120,000 clandestine immigrants. In order to put an end to this situation, Decree-Law No. 212/92 was passed on 12 October 1992 to help to regularize the situation of clandestine immigrants.

240. The fact that Portugal has traditionally been a country of emigration, with immigration a recent phenomenon, that its socio-economic structures are fragile and that a significant part of the immigration is irregular or clandestine means that it has been unable to ensure that immigrants are properly received and provided with satisfactory living conditions and integration possibilities. However, there are no legal restrictions on the rights set forth in article 30 of the Convention. These rights are even safeguarded, for nationals and foreigners alike, by the Constitution, which guarantees for everyone the right to personal identity, freedom of expression and information, freedom of conscience, religion and worship, freedom of creative cultural activity, and the right of assembly and association. The Constitution also establishes that no one may be discriminated against on account of his race, language or religion.

241. It is certainly desirable that, in practice, the right of the minority communities to preserve their linguistic and cultural origins should be better protected and that their cultures and traditions should be accorded greater value and in the eyes of Portuguese nationals. In the latter connection, the Office of the Coordinating Secretariat of Multicultural Educational Programmes was established by Decree No. 63/91 of 13 March 1991, under the Ministry of Education, to prevent racism and xenophobia in the schools and to teach pupils the values of coexistence, tolerance, dialogue and solidarity among different peoples.

242. The Catholic Church also, which works closely with the migrant ethnic communities, in particular through the Portuguese Catholic Association for Migration and the Pastoral Association for the Advancement of Gypsies, has reaffirmed the idea that the integration policies adopted concerning them should recognize "the right of immigrants and other ethnic groups, especially the Gypsies, to preserve their customs, culture, language and religion and transmit them to their children, provided that they do not oppose the social, political and moral principles of the receiving country". The many national associations of the various states of origin of the immigrants and associations of solidarity with them have played an important role in preserving identity, language, customs and culture and strengthening the ties of belonging and mutual aid.